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ABSTRACT

In a response to a Congressional request, this report presents information and statistics on child labor in agriculture. Specifically, the report examines: (1) the extent and prevalence of child labor in agriculture, (2) the legislative protections available to children working in agriculture, (3) the enforcement of these protections as they apply to children working in agriculture, and (4) how federal educational assistance programs address the needs of children in migrant and seasonal agriculture, focusing on those aged 14 to 17. The report also makes recommendations to the Department of Labor to enhance the Department's enforcement and data collection procedures for detecting illegal child labor in agriculture. Principal findings include: (1) incomplete data may underestimate the number of children working in agriculture; (2) children working in agriculture receive less legal protection than children working in other industries; (3) weaknesses in enforcement and data collection procedures mean violations are not being detected; and (4) program operations and data limitations impede the assessment of the Migrant Education Program and the Migrant and Seasonal Farmworker Program. Appendixes include state experiences with child labor and legal protections for agricultural workers under 18 in California, Florida, and Vermont, and comments on this report from the Department of Agriculture and Department of Labor. (SAS)

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ED 423 102

United States General Accounting Office

GAO

Report to Congressional Requesters

August 1998

CHILD LABOR IN AGRICULTURE

Changes Needed to Better Protect Health and Educational Opportunities

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
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GAO

United States
General Accounting Office
Washington, D.C. 20548

Health, Education, and
Human Services Division

B-278488

August 21, 1998

The Honorable Henry Waxman
Ranking Minority Member
Committee on Government Reform and Oversight
House of Representatives

The Honorable Tom Lantos
The Honorable Bernard Sanders
House of Representatives

As you requested, this report presents information on (1) the extent and prevalence of child labor in agriculture, (2) the legislative protections available to children working in agriculture, (3) the enforcement of these protections as they apply to children working in agriculture, and (4) how federal educational assistance programs address the needs of children in migrant and seasonal agriculture.

This report makes recommendations to the Department of Labor to enhance the Department's enforcement and data collection procedures for detecting illegal child labor in agriculture. It also includes a matter for congressional consideration regarding the protections provided to children working in agriculture under federal child labor law.

As arranged with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days after its issue date. At that time, we will send copies to the Secretary of Labor, Labor's Assistant Secretaries for Employment Standards, Occupational Safety and Health, and Employment and Training, as well as Labor's Wage and Hour Division Administrator. We will also send copies to the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, the Secretary of Education, state enforcement and education agencies, and others upon request.

This report was prepared under the direction of Carlotta Joyner, Director for Education and Employment Issues, who may be reached at (202) 512-7014 if you or your staffs have any questions. Major contributors to this report are listed in appendix IV.

Richard L. Hembra
Assistant Comptroller General

Executive Summary

Purpose

Millions of adolescents in this country work to earn spending money, gain responsibility and independence, and help their parents financially. The agricultural industry, although generally agreed to be one of the most dangerous, employs a proportionately larger number of these children than other industries. When the U.S. agricultural industry depended upon small and family farmers for most agricultural products, children working for their parents or local farmers was common. Today, a different kind of child labor exists on U.S. farms, fewer of which are owned by families or local farmers. These children, who are the focus of this report, work as hired labor on a migrant or seasonal basis (that is, moving to find employment or working intermittently) or have parents who work as migrant and seasonal workers. Migrant and seasonal agricultural workers—especially children—have been the subject of studies and much concern in the past several years because of the possible adverse impact of this work on their health, well-being, and academic achievement.

Because of these concerns, you asked GAO to (1) determine, given the data available, the extent and prevalence of children (defined as anyone under 18) working in agriculture, including their injuries and fatalities; (2) describe and analyze the federal legislative protections and those in selected states for children working in agriculture; (3) assess the enforcement of these laws as they apply to children working in agriculture; and (4) identify federal educational assistance programs and describe how they address the needs of children in migrant and seasonal agriculture, focusing on those aged 14 to 17.

Background

Many federal and state agencies are responsible for enforcing the laws protecting children working in agriculture and overseeing programs designed to enhance the educational opportunities of children in migrant and seasonal agriculture. The Department of Labor's Wage and Hour Division (WHD) is responsible for enforcing the Fair Labor Standards Act (FLSA), the federal law establishing child labor and other labor standards (for example, the minimum wage) for employers engaged in interstate commerce. In addition, state labor departments are responsible for enforcing their own child labor and other laws that apply to children and others working in agriculture. Labor's Occupational Safety and Health Administration (OSHA)—along with its state counterparts—is generally responsible for enforcing safety and health standards for workers of all ages, while the Environmental Protection Agency (EPA) and state agencies are responsible for protecting agricultural workers of all ages from pesticide exposure through appropriate exposure reduction measures.

Labor and the Department of Education oversee educational programs that target educationally and economically disadvantaged children—classifications that include migrant and seasonal agricultural child workers or children of such workers—to help them overcome barriers to academic achievement.

Several recent initiatives have addressed the safety, health, and academic achievement of children, especially those who work. In 1998, the President announced a Child Labor Initiative to reduce abusive child labor and enhance educational opportunities for migrant and seasonal agricultural child workers. As a part of planning efforts under the Government Performance and Results Act of 1993 (the Results Act),[1] Labor, Education, and EPA identified children's safety, health, and education as major goals. For example, the Secretary of Labor has stated that reducing illegal agricultural child labor is a major agency goal, and Labor's WHD has committed to a 5-year effort to reduce illegal child labor by employers producing particular agricultural commodities. In addition, a 1997 presidential executive order called for federal agencies to identify and assess environmental health and safety risks that may disproportionately affect children.

Results in Brief

According to one nationally representative estimate, about 116,000 15- to 17-year-olds worked as hired agricultural workers in 1997. This estimate (as well as those from other sources) may undercount the number of children employed in agriculture because of methodological limitations in making the estimates. Of all children working in agriculture, between 400 and 600 suffer work-related injuries each year. In addition, between 1992 and 1996, 59 children lost their lives while working in agriculture. While these injury and fatality data show that agriculture is a hazardous industry for children, they also may be understated because of methodological constraints.

Changes to FLSA since it was first passed 60 years ago have resulted in more protection for children working in agriculture than when the law was first passed. During this time, the U.S. agricultural industry has continuously evolved, and an emphasis on children's safety, health, and

[1]Under the Results Act, major federal agencies must establish program goals and measure their achievement of those goals. These goals and processes are outlined in a number of key documents. First, agencies develop strategic plans that document agencywide long-term goals and describe how they intend to achieve their goals. Then, each year (starting in fiscal year 1999), agencies prepare annual performance plans that identify the relationship of their annual goals to the long-term goals, the resources necessary to achieve the annual and long-term goals, and the performance indicators to be used to gauge progress in accomplishing the goals.

academic achievement has grown. Nevertheless, FLSA and state laws provide less protection for children working in agriculture than for children working in other industries. Consequently, children may work in agriculture under circumstances that would be illegal in other industries.

Weaknesses in current enforcement and data collection procedures limit WHD's ability to detect violations involving children working in agriculture. Enforcement activities devoted to agriculture have declined in the past 5 years as has the number of detected cases of agricultural child labor violations. WHD has not established the procedures necessary for documenting whether children are working in agriculture in violation of child labor laws, nor has it routinely followed established procedures for facilitating enforcement coordination for better detecting illegal child labor in agriculture. WHD's enforcement database does not identify all child labor-related violations under FLSA, nor can WHD and other enforcement agencies identify the extent to which children are involved in other types of labor law violations. Limitations in available data may also affect WHD's ability to assess its progress in reducing illegal child labor in agriculture.

Education and Labor have many programs to improve educational opportunities for disadvantaged school-aged children (those aged 6 to 17); however, few of these programs specifically target migrant and seasonal agricultural child workers or children of such workers, and most collect no information on the number of such children served. Even for the two largest programs that target some or all of this population—Education's Migrant Education Program (MEP) and Labor's Migrant and Seasonal Farmworker Program (MSFWP)—program operations and subsequent data limitations impede a national evaluation of these programs' results for this target population. Under MEP, the substantial flexibility given state and local educational agencies regarding program administration results in significantly different services being provided among the states. The MSFWP's traditional focus on adult employment needs has prevented the establishment of performance standards and outcome measures for children in this age group.

Principal Findings

Incomplete Data May Underestimate the Number of Children Working in Agriculture

Estimates derived from the Current Population Survey (CPS) show that, on average, about 155,000 15- to 17-year-olds worked in agriculture in 1997—most of whom (116,000) were hired workers. About 39,000 were self-employed and unpaid family workers. Recent estimates from the National Agricultural Workers Survey (NAWS) indicate that about 129,000 14- to 17-year-old hired farmworkers were working on crops. Although these are nationally representative sources of data on agricultural employment, each of them has limitations that may produce estimates that understate the number of children working in agriculture. For example, both surveys exclude workers under 15 or 14, respectively.

Work-related injuries to children working in agriculture tend to be more severe than injuries to children working in other industries. In addition, children in agriculture have a higher fatality rate than children in other industries: deaths of children working in agriculture accounted for about 25 percent of all deaths of children working as hired workers in all industries, even though only about 4 percent of hired workers in this age range work in agriculture. Because of the difficulties determining whether children's injuries or illnesses are work related, however, these data most likely understate the incidence of work-related injuries to and deaths of children working in agriculture.

Children Working in Agriculture Receive Less Legal Protection Than Children Working in Other Industries

FLSA and selected state laws allow child agricultural workers to work at younger ages, for longer hours, and in more hazardous occupations than children working in other industries. When first passed in 1938, FLSA provided few restrictions on the use of child labor in agriculture, probably reflecting the conditions of U.S. agriculture and national priorities—the prevalence of small and family farmers who depended upon such labor for economic viability and generally low educational aspirations for children. Since then, the Congress has placed additional restrictions on how and when children may work in agriculture, which partly reflects the decline in the small and family farm, the concentration of agricultural employees in large agricultural firms, a greater focus on protecting children's safety and health, and a greater emphasis on children's academic achievement.

Weaknesses in Enforcement and Data Collection Procedures Mean Violations Are Not Being Detected

The number of agricultural inspections performed by Labor's WHD has generally declined in the past 5 years as have the numbers of inspections performed by OSHA, EPA, and some state enforcement agencies. Meanwhile, the number of cases involving violations of child labor law in agriculture detected by WHD nationwide declined from 54 in fiscal year 1993 to 14 in fiscal year 1997. WHD inspectors lack clearly documented procedures for agricultural inspections to help them determine whether a child is too young to be working or whether the child is, in fact, working—key conditions for demonstrating that a violation has occurred. Furthermore, even though WHD and federal and state enforcement agencies have established procedures and agreements for conducting joint inspections, referring potential child labor cases to the appropriate agency, and exchanging information to facilitate enforcement efforts, these procedures are not routinely followed.

WHD's and other enforcement agencies' databases do not provide information on violations involving children except for those specifically related to child labor laws. For example, the WHD database does not identify when employers have been cited for not having valid proof of children's ages, as FLSA requires. In addition, neither WHD nor other enforcement agencies can identify the extent to which children are involved in violations of minimum wage, housing, or other labor laws, but available data indicate that these types of violations sometimes involve children. Finally, WHD's database also lacks key data about violations that have been detected such as the penalties assessed for child labor violations.

Program Operations and Data Limitations Impede the Assessment of MEP and MSFWP

Poverty, limited English ability, and rural and social isolation place children in migrant and seasonal agriculture at considerable risk of academic failure. The considerable mobility and other conditions of agricultural work add to these difficulties, resulting in school enrollment rates and high school completion rates among the lowest in the nation. Children aged 14 to 17 face particular educational challenges, especially those children who live independently of their families. Program operations and a lack of data, however, impede an evaluation of the results for MEP and MSFWP on the academic achievement of children aged 14 to 17 in migrant and seasonal agriculture. Because of MEP's decentralization and flexibility, certain activities, such as how funds are used and which eligible children are served, vary by state. This variation makes it difficult to determine uniform measures to identify results. In addition, resources available from MEP are relatively minor compared with

the resources provided by state and local programs, and the effects of MEP cannot be separated from these larger efforts. Education collects no information from the states on the outcomes for children whom MEP serves.

Because of MSFWP's traditional focus on the employment needs of adults, Labor has not established specific outcome measures for children aged 14 to 17. Farmworker advocates, selected program officials, and others believe MSFWP has an important role in serving these children, particularly those not in school. About 30 percent of individuals completing the program are younger than 22 years old. Although age and outcome information is collected for each participant at the local level, Labor aggregates program participation and outcome data into broad age categories when collecting these data, so it cannot describe services provided to children aged 14 to 17 or outcomes for this group.

Matter for Congressional Consideration

Considering the evolutionary changes that continue to transform the agricultural industry and the increased national emphasis placed on children's health, safety, and academic achievement, the Congress may wish to formally reevaluate whether FLSA adequately protects children working in agriculture.

Recommendations

GAO is making recommendations to the Secretary of Labor aimed at improving procedures for conducting inspections and better identifying the number of violations involving children. GAO is also making a recommendation that would lead to a better understanding of the extent to which MSFWP is effectively serving children aged 14 to 17 in agriculture.

Agency Comments and GAO'S Evaluation

GAO provided copies of this report to the U.S. Department of Agriculture (USDA), EPA, the Departments of Labor and Education, and the states included in this review for comment. EPA, Education, and the states provided technical comments to improve the clarity and accuracy of the report, which were incorporated as appropriate. USDA concurred with GAO's recommendations (see app. II).

In its response, Labor generally concurred with GAO's recommendations to issue enforcement guidance and adhere to coordination procedures (see app. III). Regarding the recommendations about collecting better data on violations involving children, Labor acknowledged that such data may be

beneficial but identified cost and the practicality of collecting such information as major issues that would need to be considered. Although these issues must be considered, given the Results Act environment that seeks to encourage data-driven measurable goals and objectives and the emphasis WHD has placed on detecting illegal agricultural child labor, collecting this information would enhance the agency's ability to protect children working in agriculture.

Labor did not directly comment on GAO's recommendation to develop and analyze data on MSFWP services and outcomes for children aged 14 to 17 to determine the number of these children served, the services provided, and the outcomes experienced by these children. Labor said, however, that this information is included in the collapsed data collected on all participants aged 14 to 22. This inability to isolate key information prompted GAO's recommendation; by combining the experiences of youths with adults, Labor cannot analyze the services provided to participants under 18.

Labor also disagreed with GAO's observation that the decline in enforcement resources devoted to agriculture resulted in fewer opportunities to find potential child labor violations. Instead, it asserted that no direct correlation exists between the decline in resources devoted to agricultural inspections and WHD's ability to detect potential child labor violations. Although GAO recognizes that the detection of illegal child labor is not solely determined by the number of inspections conducted, past enforcement history has shown that when WHD has dedicated increased resources to enforcement, it has detected more violations (see ch. 6).

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Abbreviations

BLS	Bureau of Labor Statistics
CPS	Current Population Survey
EPA	Environmental Protection Agency
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FLSA	Fair Labor Standards Act
HHS	Department of Health and Human Services
JTPA	Job Training Partnership Act
LEA	local educational agency
MEP	Migrant Education Program
MSFWP	Migrant and Seasonal Farmworker Program
MSPA	Migrant and Seasonal Agricultural Worker Protection Act
MSRTS	Migrant Student Record Transfer System
NAWS	National Agricultural Workers Survey
NIOSH	National Institute for Occupational Safety and Health
OSHA	Occupational Safety and Health Administration
SEA	state educational agency
TIPP	Targeted Industries Partnership Program
USDA	U.S. Department of Agriculture
WHD	Wage and Hour Division

Chapter 1

Introduction

Millions of adolescents in this country work to earn spending money, gain responsibility and independence, help their parents financially, or enhance their educational experience. Although these children work in all different industries, those working in agriculture as migrant or seasonal workers (those constantly on the move to stay employed or those who are only able to find intermittent employment) or whose parents work as migrant and seasonal workers may face economic, social, and educational challenges that distinguish them from children working in other industries.

Over the years, commissions, farmworker advocates, and policymakers have commented on the conditions of hired agricultural workers. Although the exact number of workers in agriculture is difficult to estimate, the Commission on Agricultural Workers in 1992 reported that the United States had about 2.5 million hired agricultural workers.[2] Other sources report that the majority of hired agricultural workers work in producing crops, such as fruits and vegetables, and in horticulture. Even though defining agriculture is difficult,[3] it is generally acknowledged to be a high-hazard industry; in 1995, the incidence rate (the number of injuries and illnesses for every 100 workers) for agriculture was 9.7, higher than private industry's in general (8.1), and third in severity behind manufacturing (11.6) and construction (10.6).

Many federal and state agencies are responsible for enforcing laws that protect workers—including children—in agriculture. The Department of Labor's Wage and Hour Division (WHD) is responsible for enforcing the Fair Labor Standards Act (FLSA), the federal law that establishes child labor and other labor standards (for example, the minimum wage) governing employers engaged in interstate commerce. WHD is also responsible for enforcing the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), which governs housing, transportation, and other work conditions for agricultural workers. In addition, state labor departments are responsible for enforcing their own child labor and other laws that apply to children and others working in agriculture. Labor's Occupational Safety and Health Administration (OSHA)—along with its state counterparts—is generally responsible for enforcing safety and health standards for workers of all ages in all industries, although in 1997 Labor transferred

[2]The Commission on Agricultural Workers was established by the Immigration Reform and Control Act of 1986. The Commission's role, among other tasks, was to evaluate the conditions of the U.S. agricultural industry.

[3]Definitions of agriculture typically vary. In most cases, agriculture includes the harvesting or cultivating of crops, working with livestock, and providing agricultural services (such as farm labor and management services). In some cases, however, agriculture may also include work in fisheries, forestry, hunting, and trapping.

some of OSHA's authority over agricultural employers' provision of temporary housing and field sanitation to WHD.[4]

The Environmental Protection Agency (EPA) and state agencies, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), are responsible for protecting agricultural workers from pesticide exposure.[5] EPA's Worker Protection Standard, enforced by state agencies under the guidance of EPA, provides for various risk-reduction practices that cover all pesticide handlers and workers involved in cultivating and harvesting crops. This standard requires employers to follow instructions on pesticide labels that specify periods of restricted entry into fields after pesticides have been applied and the use of personal protective equipment by pesticide handlers when applying pesticides or for workers who must enter treated fields before the restricted entry time has expired.[6] Employers must also provide other services, such as basic training on pesticide hazards, information about pesticides that have been applied, and emergency assistance for treating a worker's illness or injury. All agricultural employers, regardless of the size of their establishment, are required to provide these protective measures to their agricultural workers. Children are not distinguished from other workers. The standard largely excludes others who may be living on the farm premises who are not workers (such as family members of farm owners) or children of hired farmworkers who may be in the fields with their parents while the parents are working.

Labor and the Department of Education also oversee billions of dollars in federal aid that helps educationally and economically disadvantaged children—which includes migrant and seasonal children in agriculture. While the Department of Agriculture (USDA) has no enforcement authority over agricultural employers for labor or safety and health laws that affect children or other workers, it does oversee the collection of information about selected farm characteristics such as cultivated acreage and dollar sales. In addition, the National Institute for Occupational Safety and

[4]States may operate their own safety and health programs under the guidance of OSHA as long as they are determined to be at least as effective as the federal OSHA program. When this authority was transferred to WHD, 14 OSHA-approved state plan states kept their authority. As a result, in some states, the state OSHA is still responsible for enforcing temporary labor camp and field sanitation requirements.

[5]Although OSHA is responsible for monitoring chemical production and handling in all industries, OSHA has no standards covering agricultural workers' handling or exposure to pesticides.

[6]The premise of the standard is that if the employer adheres to the label's instructions, then harmful exposure to workers should not occur. Even if a farmworker or pesticide handler is accidentally exposed to a pesticide, the employer would be in compliance with the standard if the employer followed the pesticide label's instructions.

Health (NIOSH), of the Department of Health and Human Services (HHS), conducts independent research on work place safety and health issues.

As we and others have noted in the past, federal wage and safety and health protections are typically less stringent for agricultural workers—of all ages—compared with those for workers in other industries and, in general, agricultural workers receive lower hourly wages than workers in many other industries.[7] FLSA exempts small agricultural employers (defined as those employers who did not use more than 500 days of agricultural labor, which equals about seven full-time workers, in any calendar quarter of the preceding calendar year) from paying the minimum wage to their employees.[8] In addition, agricultural employers of all sizes are not required by FLSA to pay their workers overtime.[9] Agricultural employers are also exempt from most safety and health standards enforced by OSHA, and OSHA is prohibited by an appropriations rider from conducting inspections on certain small agricultural employers (those who employ 10 or fewer workers and provide no temporary housing for those workers), even if it receives a complaint about unsatisfactory working conditions from a worker or if a worker is fatally injured.[10] In other industries, an OSHA inspector must respond to a complaint and investigate work place fatalities.

Several recent initiatives specifically address conditions affecting children. Executive Order 13045, for example, created a high-level task force composed of the Secretaries of Agriculture, Education, and Labor and the Administrator of EPA, among others. The task force is responsible for recommending actions to the President to reduce risks to children. In addition, in documents prepared in compliance with the Government Performance and Results Act of 1993 (the Results Act), Labor's WHD introduced a 5-year enforcement effort targeted toward employers producing particular agricultural commodities with an emphasis on

[7]For example, see Hired Farmworkers: Health and Well-Being at Risk (GAO/HRD-92-46, Feb. 14, 1992).

[8]FLSA exempts employers in all industries who have annual sales of less than $500,000 from paying minimum wages to their employees. The additional exemption of 500 days, however, applies only to agricultural employers.

[9]State law may require agricultural workers to receive overtime. For example, California requires its employers to pay agricultural workers overtime after 60 hours per week.

[10]OSHA has interpreted this prohibition as applicable to those agricultural industries dealing with crop production and the handling of livestock but not to agriculturally related industries such as agricultural services, forestry, fishing, hunting, and trapping.

detecting violations of child labor law.[11] EPA highlighted as a guiding principle its efforts to identify and assess environmental health risks, such as pesticides, that may affect children disproportionately and pledged to develop six centers to do such research. Finally, Education reported that its goal is to help all children meet challenging academic standards to prepare them for responsible citizenship and further learning—as measured through improved high school attendance and graduation rates—particularly for those students at the greatest risk of school failure, such as children in migrant and seasonal agriculture.

In 1998, the President also announced a national Child Labor Initiative to fight abusive child labor and enhance educational opportunities for children working in agriculture as migrant and seasonal workers. In response to this initiative, Labor's WHD requested an additional $4 million in its fiscal year 1999 budget to increase the enforcement resources dedicated to detecting child labor violations in agriculture. Labor has also requested $5 million to develop a pilot program that would provide educational alternatives for migrant and seasonal agricultural child workers so they would stay in school. In its budget request, Education sought an additional $50 million for its Migrant Education Program (MEP) that would allow it to serve 70,000 to 100,000 more migrant children.

Objectives, Scope, and Methodology

We were asked to (1) determine, given the data available, the extent and prevalence of children (defined as anyone under 18) working in agriculture, including their injuries and fatalities; (2) describe and analyze the federal legislative protections and those in selected states for children working in agriculture; (3) assess the enforcement of these laws as they apply to children working in agriculture; and (4) identify federal educational assistance programs and describe how they address the needs of children in migrant and seasonal agriculture, focusing on those aged 14 to 17. On March 20, 1998, we provided preliminary results of this work (see GAO/HEHS-98-112R). We conducted our work in accordance with generally accepted government auditing standards between October 1997 and May 1998.

Collecting and Assessing Data on the Number of Children Working in Agriculture

To determine the prevalence of child labor in agriculture and the conditions under which these children work, we obtained and evaluated data from a variety of sources, reviewed the methodologies used to collect these data, and interviewed officials responsible for collecting these data.

[11]Called the "salad bowl" initiative because the five commodities targeted are lettuce, cucumbers, onions, garlic, and tomatoes.

We explored several data sources, both public and private, to determine an estimate of the number of children employed in agriculture and the hazards they face. We reviewed information and databases from the Departments of Labor, Agriculture, Commerce, HHS, and other government agencies, such as the Consumer Product Safety Commission. For example, the Bureau of Labor Statistics in the Department of Labor is responsible for several main sources of data, including the Current Population Survey (CPS), the Survey of Occupational Injuries and Illnesses, and the Census of Fatal Occupational Injuries. Labor's Office of the Assistant Secretary for Policy is responsible for the National Agricultural Workers Survey (NAWS). HHS' NIOSH, a federal agency that conducts independent research on working conditions, sponsors the National Traumatic Occupational Fatalities Surveillance System and the National Electronic Injury Surveillance System, major sources of occupational fatality and injury data. We also reviewed information from private entities, such as the National Safety Council, the Association of Farmworker Opportunity Programs, the National Bureau of Economic Research, the National Farm Medicine Center, and various university studies.

Although some of these sources had helpful information, we did not use all of them because of their methodological constraints or coverage limitations. For example, some estimates defined children as anyone younger than 22 years old. In other cases, the methodologies used for developing the estimates were based on so many assumptions that the reliability of the estimates was questionable. We decided to focus on those nationally representative data that provide broad coverage of work experience by age, including CPS, NAWS, Census of Fatal Occupational Injuries, Survey of Occupational Injuries and Illnesses, National Traumatic Occupational Fatalities Surveillance System, and National Electronic Injury Surveillance System. We reviewed previously published data, extracted data from public use files, and obtained special computer runs from the responsible agencies for key data used in this report. We extracted relevant data within the constraints of sample size and privacy considerations.

NAWS has been conducted by Labor's Office of the Assistant Secretary for Policy for about a decade. During that time the survey has evolved, making several major changes in the survey's subject matter. The primary use of NAWS data is for describing the employment and economic situation of hired farmworkers, and not, according to Labor analysts, for estimating national totals of farmworkers or their dependents. Any estimates of this population must be derived by applying NAWS proportions to independent

estimates of total farmworkers such as the estimate developed by the Commission on Agricultural Workers in 1992.

We obtained from Labor a preliminary public use file of data from the survey's inception in 1988 through 1996. Because of privacy considerations, the NAWS public use file did not contain all survey data available; it excluded personal identifiers and other information that could compromise confidentiality. Because the NAWS database has more complete information than we had in the public use file, we also requested several special tabulations of NAWS data from Labor. These tabulations help to complete the picture of the situation of hired farmworkers and their families, but often the data were too sparse to use.[12]

Although other relevant variables could be explored from NAWS, in many cases (such as ethnicity of the child or season of work), the subsamples were too small for drawing reliable inferences. For example, in one of its data collection cycles (winter), NAWS collected data from only 72 farmworkers under 18. NAWS has information about hours worked by young farmworkers during the winter data collection cycle from only 65 interviewees. When delineated by ethnicity, no category has as many as 50 cases, the minimum recommended by NAWS analysts as a basis for computations. Such a distinction could be important because foreign-born hired workers make up less than half of all young farmworkers overall but constitute three-quarters of the young farmworkers interviewed during the (combined) fall and winter data collection cycles, and the vast majority of foreign-born hired farmworkers were not enrolled in school.

Analyzing the Legislative Protections for Children Working in Agriculture

To describe and analyze the legislative protections for children in agriculture at the federal level and in three states—California, Florida, and Vermont—we obtained pertinent laws and reviewed key provisions covering children and others working in agriculture. During on-site interviews with federal and state enforcement officials in Washington, D.C.; California; and Florida and in telephone interviews with Vermont officials, we discussed the coverage of these laws and their application to children and others working in agriculture compared with those working in other industries. We reviewed the legislative history of FLSA, interviewed grower and labor representatives for their perspectives on the treatment of

[12]Our work with the file provided a test of its usefulness to researchers and helped uncover weaknesses in the data and documentation provided. We presented details about the difficulties we encountered and suggestions for improving the public use file to Labor officials charged with conducting NAWS. The discussions covered cases of missing or miscoded data and ways to improve the coding and documentation.

agricultural workers under the law, and discussed potential implications of any changes to the law. We also interviewed growers and their representatives, as well as farmworker advocates, for their views on the extent of child labor used in agriculture.

We obtained additional information about protections at the state level for children working in agriculture and assessed how these laws were enforced. We selected three states—California, Florida, and Vermont—to discuss in detail states' views on child labor in agriculture, what their laws provide, and how particular local conditions and challenges affect the enforcement of state laws. We used several criteria for choosing these states. First, we reviewed state laws to determine which state laws covered children working in agriculture. We omitted those states (such as Texas) in which the laws did not cover children because selecting such a state would not have been useful. We then reviewed USDA data to identify those states ranked highest in the number of hired farmworkers and farms and interviewed farmworker advocates for their opinions on where problems with child labor in agriculture were most severe. Using these criteria, we identified California and Florida as key agricultural states as well as states that many believed faced several challenges in detecting illegal child labor in agriculture. We selected another state—Vermont—to provide a contrast in laws and experiences with those of Florida and California. A large percentage of acreage in Vermont is farmed, and Vermont relies heavily on agriculture but has few reported hired workers.

Assessing Enforcement Efforts for Protecting Children Working in Agriculture

To assess the enforcement of these laws as they apply to children working in agriculture, we obtained and reviewed established policies and procedures for federal and state enforcement agencies for conducting inspections and obtained and reviewed historical enforcement statistics from federal and state agencies responsible for enforcing child labor and other safety and health laws in the agricultural industry. Through interviews with enforcement officials in Washington, D.C.; California; Florida; and Vermont, we identified issues that could affect their ability to detect illegal child labor in agriculture.

Identifying How Federal Educational Assistance Programs Help Children in Agriculture

To identify and describe how federal educational assistance programs address the needs of school-aged (ages 6 through 17) children working in agriculture or whose parents work in agriculture,[13] we conducted a literature review and interviewed education and program officials to understand the academic challenges facing these children. We identified the main federal programs that provide direct assistance to these children and determined the level of program information available about the population served. For the two largest programs serving migrant and seasonal workers aged 14 through 17—Education's MEP and Labor's Migrant and Seasonal Farmworker Program (MSFWP)—we obtained and reviewed historical program data; interviewed program officials in Washington, D.C.; California; Florida; and Vermont; and reviewed key program operations to be considered when assessing the type and availability of program data and outcome measures.

[13]We decided to focus on school-aged children, which we defined as aged 6 through 17, because we were asked to focus on the implications of agricultural work on these children's academic achievement.

Limited Data Make It Difficult to Assess the Number of Children Working in Agriculture and Their Working Conditions

Although several major sources of data provide nationally representative estimates of the number of children working in agriculture, each has limitations that could result in undercounting. Data are also limited concerning aspects of such children's working conditions and the frequency of their work-related injuries and illnesses. Nonetheless, available data indicate that children working in agriculture have more severe injuries and a disproportionate share of fatalities compared with children working in other industries.

Incomplete Data May Underestimate the Number of Children Working in Agriculture

Two nationally representative sources of data on agricultural employment are CPS and NAWS. These surveys use different sampling techniques and cover different groups of workers, but both provide national estimates of children working in agriculture (see table 2.1).

Table 2.1: Differences in National Estimates of Children Working in Agriculture

	CPS annual averages	CPS work experience	NAWS
How data collected	National household survey	March survey supplement to CPS	National survey of employed farmworkers
Time period measured	One week each month	Activity in prior calendar year	Three times per year
Ages included	15-17	15-17	14-17
Agricultural sectors included	Crops, livestock, and agricultural services	Crops, livestock, and agricultural services	Crops
Class of worker surveyed	Hired workers, self-employed, and unpaid family workers	Hired workers, self-employed, and unpaid family workers	Hired workers
Most recent estimate	155,000 (1997 annual average)	290,000 (work experience in 1996)	128,500 (1993-96 average)

Estimates derived from CPS[14] show that, on average, about 155,000 15- to 17-year-olds worked in agriculture in 1997.[15] Most of these workers (about 116,000) were wage and salary workers (that is, hired farmworkers); about 24,000 were self-employed and 15,000 were unpaid family workers. Annual averages between 1992 and 1997 generally showed little change in the overall number of these workers. A second CPS estimate shows that in the past few years, about 300,000 of all 15- to 17-year-olds who worked at some point during the year (hired workers, self-employed, and family members) reported that they held an agricultural job the longest.[16] This estimate comes from a yearly collection of work experience data and is distinguished from the point estimates mentioned above because it represents work experience for an entire year. The number who work at any time during the year is much higher than the number who work in any given week.

CPS has limitations that probably underestimate the total number of children working in agriculture. For example, CPS collects labor force information only on individuals 15 and older; it does not collect information on workers 14 years old or younger. In addition, because CPS is a household survey that relies on address lists and for which most of the interviewing is done by telephone, certain groups are harder to interview. These could include migrants, those not living in established residences, those without ready access to telephones, and foreign-born or non-English-speaking individuals—conditions that apply to many farmworkers.

The Department of Labor's NAWS is an agricultural payroll-based survey conducted since 1988.[17] Recent NAWS estimates indicate that, on average, about 128,500 14- to 17-year-old hired farmworkers were working in crop production from 1993 to 1996. These children make up about 7 percent of

[14]CPS, conducted by the Bureau of the Census for the Bureau of Labor Statistics (BLS), is a monthly survey of a nationally representative sample of households. It is designed to develop estimates of demographic, social, and economic characteristics of the population. The monthly CPS data reflect a person's activity during a particular week (called the reference week).

[15]These young agricultural workers made up about 5 percent of all 15- to 17-year-old workers.

[16]In supplementary questions asked each Mar., CPS asks about a person's activities in the prior calendar year, including how many weeks the person worked and the characteristics of the longest job held.

[17]Three times each year, Labor surveys a sample of hired farmworkers (for a yearly total of about 2,500) on their working and living conditions and other information. It gathers detailed demographic and employment information about hired farmworkers aged 14 and older working on crops.

all hired farmworkers working on crops.[18] Because of the small sample size, NAWS trend data must be interpreted carefully; however, these data show a slight increase in the number of child farmworkers from an earlier period, when about 5 percent of hired crop workers were 14 to 17 years old (about 91,000). About 70 percent of these young farmworkers are male. Moreover, NAWS data indicate that older children are more likely to work than younger children. Farmworkers interviewed for NAWS indicated that while few of their children under age 14 work, about 8 percent of their children aged 14 and 15 work, and 17 percent of their children aged 16 and 17 work, mostly at farm jobs.

NAWS data also show a growing proportion of workers between 14 and 17 years old working away from their parents as unaccompanied minors. Recent NAWS estimates show them to total about 3 percent of all hired farmworkers (about 47,000) but more than a third of all 14- to 17-year-old farmworkers. This trend is consistent with the experiences of enforcement officials and farmworker advocates, who noted an increase in young men entering the country illegally without their parents to do agricultural work.

Though NAWS collects detailed information about certain agricultural workers, it also has limitations. For example, NAWS focuses solely on hired crop farmworkers; thus, it includes no agricultural workers who are self-employed or unpaid family workers or those hired farmworkers working with livestock. In addition, NAWS interviews only workers 14 years of age and older. Furthermore, NAWS has an extremely complex sampling design and small sample sizes, which may lead to imprecise estimates for some individual variables such as school enrollment or employment levels for different ethnic groups of workers for different data collection cycles. As a result, NAWS data also may underreport the total number of children working in agriculture.

Limited Data Identify Substantial Work Time for Children

Data documenting the hours children work and the kinds of activities they do are limited. Both CPS and NAWS collect some information about the work of children employed in agriculture; nonetheless, this information has the same limitations as the overall employment estimates. Available data, however, show that children work a substantial amount of time and their work is seasonal, physically demanding, and primarily in vegetable crops.

[18]In 1992, the Commission on Agricultural Workers estimated that the United States had 2.5 million hired farmworkers. Applying to the Commission's estimate the proportion of agricultural workers who work in crops or agricultural services (as reported by the 1990 census) yields an estimate of about 1.81 million hired farmworkers who work on crops. NAWS applies the percentage of 14- to 17-year-old farmworkers in its survey to the 1.81 million estimate to derive these totals.

Children Work a Substantial Amount of Time

CPS data show that about half of young agricultural workers work more than 3 months during the year, and NAWS data indicate that, on average, agricultural workers aged 14 to 17 work about 31 hours per week. Some NAWS data can be separated into three broad ethnicity categories: U.S.-born Hispanics, U.S.-born non-Hispanics, and those born outside of the United States. As a result, NAWS identifies that young foreign-born workers work somewhat longer hours than U.S.-born workers—35 hours compared with 27 hours. Neither CPS nor NAWS, however, provides information about the time of day this work takes place, so determining when these hours were worked (for instance, during school hours, early morning, or evenings) is impossible.

Children's Work Is Strongly Seasonal

CPS data show that children's work is mainly seasonal, with large increases in employment during the summer months. NAWS data confirm this pattern. NAWS has three data collection cycles during the year: fall, winter, and spring/summer. NAWS data indicate that nearly twice as many young agricultural workers work in the spring/summer cycle as in the fall cycle; few work in the winter. Because the NAWS spring/summer data collection cycle extends from mid-May to the end of July, however, it is an imprecise measure of summer jobs because it includes the end of the school year. These data indicate that children are working during the seasons when school is in session.

Children Work in Physically Demanding Activities

Some data are available on the general duties children perform, but these data are based on a small number of respondents and only general categories of work. According to NAWS, a substantial portion—about 40 percent—of young agricultural workers aged 14 to 17 work at harvesting tasks, which are generally considered to be some of the most physically demanding in crop work. According to Labor officials, harvesting tasks are activities associated with harvesting the crops, such as bending, stooping, or climbing ladders to pick crops, or carrying buckets of picked crops to transporting vehicles. No nationally representative estimates exist, however, on specific tasks children perform (such as driving tractors) for determining whether children are doing certain tasks before they are legally allowed to do so.

Children Work in Vegetables

NAWS also provides limited data on which crops children work, but these data are also based on a small number of respondents. According to NAWS,

about 40 percent of the young agricultural workers work on vegetables and about 20 percent work on fruits and nuts.

Data Indicate That Agriculture Is a Hazardous Industry for Children

Agriculture is a hazardous industry, with one of the highest rates of injuries, fatalities, and lost workdays for employees generally. Available data indicate that although the relative number of injuries of children working in agriculture is not as high as that for those working in other industries, the severity tends to be greater and these children have a disproportionate number of fatalities. Although a number of data sources document injuries and illnesses to children working in agriculture, methodological constraints result in estimates that may understate injuries to and fatalities of these children.

Severe Safety Problems More Likely for Children Working in Agriculture Than in Other Industries

For 1992 through 1995, BLS data show that between 400 and 600 workers under 18 suffered work-related injuries each year while working in agriculture.[19] In addition, recent estimates from NIOSH show that the estimated injury rate for 14- to 17-year-old workers in agriculture was 4.3 per 100 full-time-equivalent workers—less than the rate of 5.8 for 14- to 17-year-old workers in all industries. Fractures and dislocations, however, were more common in agriculture (14 percent) than in other industries (3 percent), which indicates that agricultural injuries tend to be more severe than those in other industries.[20]

Available data show that children working in agriculture account for about 25 percent of all fatalities of children working in all industries.[21] BLS data show that between 1992 and 1996, 59 children under 18 died while working as hired agricultural workers. CPS data, however, show that 15- to 17-year-olds working as hired agricultural workers make up only 4 percent of all 15- to 17-year-old hired workers. BLS data indicate that many of these fatalities involved transportation incidents, often overturned vehicles. In addition, NIOSH reported recently that work-related deaths of children aged

[19]These data, from the Survey of Occupational Injuries and Illnesses, are collected from a sample of records that employers with 11 or more workers must complete to report any work-related injury or illness requiring more than first aid. Although these data cannot be disaggregated by type of worker, they most likely represent hired workers because an employer would probably not record an injury to a family member.

[20]The National Electronic Injury Surveillance System collects this information on emergency room visits from a nationally representative sample of hospitals. These estimates represent only the last 6 months of 1992; more recent data are not yet available.

[21]These data are from the Census of Fatal Occupational Injuries, a database BLS maintains to track work-related fatalities. The data are based on several types of administrative records such as death certificates and state workers' compensation records.

16 and 17 working in agriculture accounted for about 30 percent of all work-related deaths in this age group between 1980 and 1989 (in cases for which industry information was known).[22]

Children's exposure to pesticides also poses serious concerns. EPA, a major source of national data on children's exposure to pesticides, is required to collect data on occupational and nonoccupational exposure to pesticides. According to EPA, between 1985 and 1992, over 750 cases of occupational exposure occurred involving children under 18, which accounted for about 4 percent of all reported cases. Our review of records from the past several years from the California and Florida pesticide incident monitoring systems from which EPA's data derive show that 1 percent or less of such exposure involved individuals under 18. These databases are limited, however, and officials agreed that they may not capture all exposure, especially exposure to children. For example, the EPA database neither includes data from all states nor differentiates between exposure occurring on a farm or in some other location.[23]

Difficulties Determining Whether Injuries and Illnesses Are Work Related May Result in Incomplete Estimates

Although the data provide indications of the hazards that agricultural work poses for children, the data are most likely understated because of difficulty relating the injury, illness, or fatality to the work place. First, employers self-report much of the data on occupational injuries, so whether employers always report events accurately is unknown. Accuracy may be especially affected if an injury or fatality involves transient or undocumented workers or if an employer or child is not covered by applicable workers' compensation, child labor, or safety and health laws.[24] Second, health practitioners may have difficulty determining whether an injury to a young child is occupationally related. This is especially true of chronic injuries or illnesses from sustained exposure to pesticides. Several concerns have been raised about whether health care professionals are

[22]For these data, agriculture includes not only crop production, agricultural services, and livestock, but forestry and fishing as well. These data are from the National Traumatic Occupational Fatalities Surveillance System, which is based on death certificate information for victims at least 16 years old whose death resulted from an injury at work. This information is provided by vital statistics reporting units nationwide.

[23]We have reported in the past that EPA's database has several limitations, such as limited coverage, potential underreporting of likely exposure, and lack of key data. See Pesticides on Farms: Limited Capability Exists to Monitor Occupational Illnesses and Injury (GAO/PEMD-94-6, Dec. 15, 1993).

[24]For example, only three work-related deaths of children under 18 were reported to OSHA by employers engaged in any type of agricultural operation for fiscal year 1997—two of which involved crop production, in which most hired agricultural workers work. Although employers are required by law to report work-related deaths to OSHA, the difference in number of deaths reported by OSHA and BLS indicates that employers are not notifying OSHA of work-related deaths as required. OSHA officials said this also may reflect the lack of authority OSHA has over these agricultural work sites.

adequately trained to recognize the effects of pesticide exposure on children or know the appropriate questions to ask to determine whether the exposure is work related. Third, children commonly work with their hired farmworker parents on evenings or weekends but are not considered to be official employees. As a result, their injuries, illnesses, or fatalities are probably not reflected in available data.[25]

Information Enhancements Will Improve Understanding of Farmworker Activity and Agricultural Safety

Labor and NIOSH are leading efforts to improve our knowledge about farmworkers' working conditions. The information gathered through these efforts could lay the groundwork for nationwide programs to improve data collection and prevent children's agricultural injuries. These efforts will improve the overall level of information about farmworkers in general and provide additional information about children's agricultural injuries.

Labor and NIOSH Plan to Enhance NAWS

Labor's proposed fiscal year 1999 budget includes an increase of about $800,000 in funding for NAWS. According to Labor officials, this increase was requested as a part of the President's Child Labor Initiative and seeks to expand NAWS coverage for all agricultural crop workers, including children. The funding, if provided, would be used to double the sample size from about 2,500 interviews per year to 5,000 and refine the sampling procedure to allow easier computation of confidence intervals. Under this funding, Labor may also undertake other activities specific to obtaining detailed information about children's work experience—such as expanding the survey to include workers under 14 or including a proportionately greater number of workers under 18 to allow for greater reliability of key data variables. Labor and NIOSH are also implementing an interagency agreement under which NIOSH will provide funding for an expanded survey that will yield additional safety and health data.

NIOSH Effort Will Address Agricultural Conditions and Safety

Several groups have noted the need for a better understanding of the magnitude and scope of children's agricultural injuries, improved targeted research and prevention efforts, and an assessment of the progress made over time. In the mid-1990s, representatives from a variety of public and

[25]For example, in the past several years, two children in Florida—one as young as 4 years old—were run over by farm machinery while with their working parents (who were hired farmworkers). Because Florida labor authorities determined these children were not working, these deaths would not be counted as part of these data.

private, academic and industrial, medical, and educational organizations formed the National Committee for Childhood Agricultural Injury Prevention. Through consensus, the Committee refined and prioritized recommendations for action. Working with NIOSH, the Committee's work culminated in a National Action Plan that specified 13 objectives and 43 recommended action steps for meeting those objectives. Among those recommendations was that the Congress designate NIOSH to lead an effort to establish and maintain a national system for preventing children's agricultural injury. The National Action Plan recommended a systematic approach, including research, education, program interventions, and public policy. Subsequently, the Congress allocated $5 million in 1996 to NIOSH to support an initiative to prevent children's agricultural injuries. This effort is envisioned as a 5-year initiative with annual funding of $5 million.

The NIOSH initiative seeks to address critical data needs, such as surveillance of agriculture-related injuries, health implications of pesticide exposure, and consequences of farm injuries. This initiative will also establish an infrastructure to make better data available for developing and improving prevention efforts and encourage the use of effective prevention strategies by the private and public sectors. As part of the initiative, NIOSH is conducting or supporting research in the following areas: migrant and seasonal worker injury surveillance, risk-factor research, outcomes research, intervention strategies, migrant workers' health, pesticide exposure in children, ergonomics, farm children's attitudes and behaviors, and evaluation of safety and health educational programs. These research projects are limited in scope but should improve knowledge about promising strategies and may lead to improved data collection, more effective interventions, and better injury prevention programs nationwide.

Children Working in Agriculture Receive Less Legal Protection Than Children Working in Other Industries

FLSA and state laws provide less protection for children working in agriculture than they do for children working in other industries; therefore, children may work in agriculture in settings that would be illegal in other industries. Nonetheless, FLSA's current provisions are more protective now than when the law was first passed 60 years ago and reflect the dynamic changes that are transforming U.S. agriculture and the increased national emphasis on the safety, health, and academic achievement of children.

FLSA Provides Less Protection to Children Working in Agriculture

The Congress enacted FLSA in 1938 to provide protections for children and others working in all industries. The need to impose restrictions on child labor in agriculture was recognized by President Roosevelt who sent a message to the Congress urging it to pass legislation to, among other things, protect against "the evil of child labor" in factories and on farms. Nonetheless, 60 years after FLSA was passed, although it covers children working in both agriculture and other industries, children working in agriculture are legally permitted to work at younger ages, in more hazardous occupations, and for longer periods of time than children working in other industries. For example, a 13-year-old may not, under federal law, be employed to perform clerical work in an office but may be employed to pick strawberries in a field. A 16-year-old may not operate a power saw in a shop or a forklift in a warehouse but may operate either on a farm. Finally, under current law, a 14-year-old hired to work in a retail establishment may work only between the hours of 7 a.m. and 7 p.m. (9 p.m. in the summer) and may not work more than 18 hours in a school week or 3 hours in a school day; the same child may work an unlimited number of hours picking grapes as long as he or she is not working during school hours.

Children May Work at Younger Ages

As shown in table 3.1, in agriculture, children as young as 12 years old may work in any nonhazardous occupation with the parents' written consent or if working on a farm that employs their parent as long as the work is done outside of school hours. On small farms, children even younger than 12 may work with their parents' written consent.[26] In nonagricultural industries, the youngest age at which a child may work is 14 (outside of school hours) and, even then, only in specified allowable occupations. In agriculture, children who work on a farm owned by their families may work at any age. In other industries, children under 16 employed by their

[26]Although the law allows for children as young as 10 to work on hand harvest or short season crops under a special waiver granted by the Secretary of Labor, Labor officials said they have not granted any such waivers since the 1980s.

parents may perform any work as long as it is not in mining or manufacturing and has not been declared hazardous by the Secretary of Labor.

Table 3.1: Comparison of FLSA Child Labor Protections for Agricultural and Nonagricultural Workers Under 18

	Agricultural occupations			Nonagricultural occupations[a]		
Age	**Allowable occupations**	**Allowable hours**	**Other conditions**	**Allowable occupations**	**Allowable hours**	**Other conditions**
16 and 17	All	All	None	Nonhazardous[b]	All	None
14 and 15	Nonhazardous[c]	Unlimited hours outside of school	None	Nonhazardous explicitly permitted by Labor[d]	Up to 40 hours in nonschool week; up to 18 in school week; up to 8 on nonschool day; up to 3 on school day; between 7 a.m. and 7 p.m. (9 p.m. in summer)	None
12 and 13	Nonhazardous[c]	Unlimited hours outside of school	Written consent of parent or work on farm where parent employed	None	None	Not applicable
Younger than 12	Nonhazardous[c]	Unlimited hours outside of school	On small farm with written consent of parent[e]	None	None	Not applicable
10 and 11	Hand harvest short season crops (nonhazardous)	Up to 5 hours a day and 30 hours a week outside of school	Under terms of waiver issued by Labor, which includes various protections, including parental consent	None	None	Not applicable

[a]Does not include the following occupations that have statutory exemptions allowing children to work regardless of age: newspaper deliverers, actors, and makers of certain live wreaths.

[b]Occupations not declared particularly hazardous or detrimental to health or well-being by the Secretary of Labor under 29 C.F.R. 570.50 et seq. for children between 16 and 18 years old.

[c]Agricultural occupations not declared particularly hazardous under 29 C.F.R. 570.70 et seq. for children under 16 years old.

[d]Nonmanufacturing and nonmining occupations declared permissible under 29 C.F.R. 570.31 et seq.

[e]A small farm is an agricultural employer who did not use, during any calendar quarter in the preceding year, more than 500 days of agricultural labor.

Children May Work in More Dangerous Occupations

As indicated in table 3.1, children as young as 16 may work in agriculture in any capacity, including in some occupations declared hazardous by the Secretary of Labor, such as operating certain tractors, cotton pickers, hay balers, power post drivers, trenchers or other earth-moving equipment, forklifts, or power-driven saws; or driving a bus, truck, or automobile. In nonagricultural industries, children generally may not perform such tasks until age 18.[27] Furthermore, in agriculture, parents do not have to adhere to hazardous occupation requirements, which means a parent may allow his or her 7-year-old to operate a power saw or drive a tractor, although a parent would not be able to allow his or her 7-year-old to operate a similar machine in a nonagricultural setting.

Children May Work Longer Hours

Table 3.1 illustrates that a child under 16 may generally work in agriculture for an unlimited number of hours as long as the child is not working during school hours. Conversely, in other industries, a 14- or 15-year-old child may only work for a limited number of hours not only when school is in session, but also when it is not in session. Children who work for their families—in any industry—may work an unlimited number of hours.

State Laws Also Generally Provide Less Protection to Children Working in Agriculture Than to Children Working in Other Industries

Thirty-four states have laws that provide some protections for children working in agriculture. State laws play an important role in supplementing FLSA's protections because they may apply to those employers not covered under FLSA. Moreover, if an employer is covered under FLSA and the state laws, the more stringent provision applies. In other words, in a state with a law with provisions that are more protective than FLSA's, the state provision would apply. Much like FLSA, however, state laws generally provide less protection to children working in agriculture than to children working in other industries.[28]

With the exception of states such as Florida (whose child labor law generally applies equally to children working in all industries), in general, state protections provided to children working in agriculture are less stringent than those for children working in other industries. Sixteen

[27]In its fiscal year 1999 budget, Labor requested funding to reevaluate these hazardous occupations to determine whether they need to be updated. Officials could not say whether Labor is considering making the hazardous occupation limitations for agriculture more stringent; rather, the goal is to determine whether other dangers, such as exposure to pesticides, should be incorporated into the revised hazardous occupations orders.

[28]For a detailed discussion of California's, Florida's, and Vermont's child labor laws as they apply to children working in agriculture, see app. I.

states have no protections at all for children working in agriculture,[29] and over half of the 34 states that do have protections for children working in agriculture allow them to work more hours per day or per week than children in other industries. For example, California allows exemptions for employers operating agricultural packing plants to employ 16- and 17-year-olds during any day when school is not in session for up to 10 hours per day during peak harvest seasons. Although these exemptions are only to be granted if they do not materially affect the safety or welfare of the children and are needed by the employer to prevent undue hardship, California labor officials said, after an initial inspection of the employer, they generally grant all requests for such exemptions. In addition, most of these states allow children in agriculture to work in hazardous occupations at younger ages than children in other industries.

Compared with FLSA, about two-thirds of the 34 states allow children to work at about the same ages (12 to 14), although several allow younger children to work in agriculture. For example, Vermont has no lower age limitation for children working in agriculture outside of school hours. More protective than FLSA, most of these states limit the number of hours a child under 16 may work in agriculture. For example, California prohibits a child under 16 from working more than 18 hours a week while school is in session. Florida prohibits a child under 16 from working more than 15 hours a week when school is in session and does not even allow 16- or 17-year-olds to work during school hours as allowed by FLSA and other states. Moreover, in California, all children who wish to work in any industry (including agriculture) must be issued a work permit verifying their age and specifying the hours they are permitted to work. If the number or range of hours on the permit are more stringent than those allowed by California law, then those on the work permit are what the employers are held to. Over 70 percent of these 34 states provide either the same or less protection as FLSA for agricultural child workers regarding the occupations they may perform. Several, however, have more stringent protections. For example, Florida prohibits anyone under 18 from operating or helping operate a tractor of a certain size; any trencher or earth-moving equipment; any harvesting, planting, or plowing machine; or any moving machinery (FLSA allows 16-year-old agricultural workers to operate this type of equipment). California has also instituted what it calls an agricultural "zone of danger" provision that prohibits children under 12 from working or accompanying an employed parent near unprotected water hazards, unprotected chemicals, or moving equipment.

[29]According to WHD, those states whose child labor laws do not cover children working in agriculture are Alabama, Georgia, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Montana, Nebraska, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, West Virginia, and Wyoming.

Changes to FLSA Have Reflected Changes in Agricultural Industry and Educational Priorities

FLSA as originally enacted provided few restrictions on the use of child labor in agriculture, probably reflecting the conditions existing in U.S. agriculture at the time. Since FLSA's original passage, however, the Congress has repeatedly revised FLSA's protections for children working in agriculture to provide more protections regarding children's ages, working hours, and types of occupations they may perform. These changes accompanied dynamic changes in the U.S. agricultural industry and increased public concern for children's safety and education.

Various Conditions May Explain FLSA's Original Treatment of Children Working in Agriculture

FLSA as originally enacted only prohibited children from working in agriculture during the hours they were legally required to attend school, although it provided many additional protections for children working in other industries. Several conditions existing at that time may explain why children working in agriculture were treated differently from children working in other industries:

- Significance of small farm production: When FLSA was passed, small and family farmers formed an important part of the U.S. agricultural industry. Given the industry's seasonality and instability and the interest in preserving its economic viability, restricting the use of labor, especially child labor, may have placed undue economic and other hardships on these farmers.
- Benefits to children of agricultural work: When FLSA was enacted, agriculture may have been considered to provide a beneficial work environment for children. In addition, because agriculture had lower levels of mechanization and use of pesticides than it does today and was performed out of doors, it may have provided a safer alternative for children than other industries. In fact, one view expressed at the time was that work on the farm was free from the moral turpitude of city sweatshops and that farm labor taught children valuable lessons and skills.
- Little national emphasis on academic achievement: Few compulsory education attendance requirements existed during the 1930s, and children were expected to find work at the earliest age possible. Because the use of child labor in many industries was common and accepted, children were likely to stop attending school at 14 or 15 to work or take over the family farm.

Congressional Amendments to FLSA Have Expanded Protections for Children Working in Agriculture

Since the 1930s, several dynamic changes have taken place not only in the U.S. agricultural industry, but also in the emphasis our nation has placed on children's health, safety, and academic achievement. During this same period, the Congress has amended FLSA on several occasions and has provided children working in agriculture with additional protections. These changes, which addressed limiting the hours and ages that children may work and the type of work that they may perform, reflected the changing views about the industry and the focus on children's safety and academic achievement. The legislative changes include the following:

- Prohibition against work during school hours (1949): FLSA was expanded to prohibit children from working during school hours. Before this, children working in agriculture were only excluded from coverage "while not legally required to attend school." In other words, children not legally required to attend school could work at any time. Under the 1949 amendment, these children, though not required to attend school under state law, were still prohibited from working as agricultural employees during school hours.
- Prohibition on work in hazardous occupations (1966): FLSA was expanded to prohibit children under 16 from working in various hazardous agricultural occupations. Before this amendment, children of any age could perform any occupation. This change most likely reflected the growing awareness that the agricultural industry was becoming more mechanized and was increasing the use of pesticides, which posed possibly greater dangers to young children.
- Prohibition on the employment of young children (1974): FLSA was expanded to prohibit the employment of children under 12 (except if working on the family farm or on a small farm with parental consent). The law also prohibited children working at age 12 or 13 unless a parent consented or employment was on the same farm on which a parent worked.[30]

Following are changes in the agricultural industry and in the importance of children's safety and academic achievement:

- Decline of the small farmer: The agricultural sector as a percentage of total U.S. economic activity dropped from 27 percent in 1930 to 16 percent in 1990. Meanwhile, the number of farms declined from over 6 million in 1930 to about 2 million in 1992. As the number of farms declined, the

[30]In 1977, the 1974 amendment was relaxed somewhat to allow the Secretary of Labor to waive, at the request of an agricultural employer, the child labor restrictions to permit the employment of children between the ages of 10 and 12 under certain circumstances and for limited periods of time to do hand harvesting. According to Labor officials, however, since the 1980s, this waiver has not been granted.

relative size of farms (in market value of agricultural products sold in 1982 dollars) increased substantially; the market value of a farm in 1930 was less than $10,000, but by 1992 it was over $80,000. In 1995, 6 percent of farms accounted for almost 60 percent of production. In addition, over half of the hired workforce works on farms employing more than 10 workers.[31] Today, rural communities obtain less of their income from farms, and farmers are leasing out their acreage to large agricultural producers to reduce costs and increase production efficiencies.

- Enhanced national focus on safety and health of children: During these years, scientific and technological innovations have led to greater use of machinery and pesticides to protect and preserve agricultural commodities. As a result, the country became more aware of and concerned with workers' health in general and the special needs of children. Pesticides' effect on children has prompted much study and concern. Researchers continue to identify relationships between health problems and occupational exposure to pesticides or farm work, such as physically demanding farm tasks that hired children do, for example, kneeling or bending for long time periods. Partly because of these dangers, some agricultural producers have policies not to hire anyone under 18.
- Greater national emphasis on children's academic achievement: The nation has placed great importance on children's academic achievement by establishing compulsory education requirements and seeking to improve school attendance rates; graduation rates; and reading, math, and science skills. Educators and policymakers have realized that ensuring a skilled labor force requires better preparing children for an increasingly competitive global marketplace. In addition, researchers have found that children's working more than 20 hours a week adversely affects their educational achievement; however, according to NAWS, hired agricultural workers aged 14 to 17 work over 30 hours a week when they work.

[31]Growers we interviewed said that when they have surplus labor, they can hire adults, who are generally more productive than children. Even if they have a labor shortage, growers would prefer not to hire anyone younger than 18 because they incur inefficiencies due to potential liability and bureaucratic hassle.

Weaknesses in Enforcement and Data Collection Procedures Mean Violations Are Not Being Detected

Weaknesses in current enforcement and data collection procedures limit enforcement agencies' ability to detect all violations of illegal child labor in agriculture. The characteristics of the agricultural industry and its workforce pose several challenges to enforcement agencies for effectively detecting violations of child labor laws. However, resources devoted to agriculture by federal and selected state enforcement agencies have declined in the past 5 years as have the number of cases of detected agricultural child labor violations. In addition, WHD and the states lack procedures necessary for detecting illegal child labor in agriculture, and enforcement agencies are not following established coordination procedures for facilitating detection of illegal child labor in agriculture. Moreover, enforcement databases lack information on children's involvement in many violations, and data limitations may affect WHD's ability to assess its progress in reducing illegal child labor in agriculture.

The Agricultural Industry Poses Several Challenges to Enforcement Agencies

The agricultural industry poses several challenges to enforcement agencies because agricultural work is unstable, its work locations are dispersed, and it offers few benefits or little job security. In addition, agricultural workers often have reason to avoid enforcement authorities (see table 4.1). Enforcement authorities must deal with these challenges to effectively detect violations of child labor or other labor or safety and health laws.

Table 4.1: Characteristics of the Agricultural Industry and Challenges They Pose to Enforcement Agencies

Characteristic	Challenge
Instability, temporary nature of agricultural field work	The nature of the work results in mobility of labor and short duration of work, making work sites, employees, and violations difficult to detect. In addition, workers may only report violations after completing their work.
Geographic dispersion of work locations	Because work sites are rural and geographically dispersed (such as orange groves or strawberry fields), it is difficult to find workers or witness violations.
Low wages, lack of benefits and job security	Workers may not report potential violations for fear of employer retaliation. Incentives exist for children to work to support the family, which can lead to informal work arrangements in which children work under their parents' payroll number or help out before and after school or on weekends. Because the children may not be considered by the employer to be officially working, their employment history may not be documented.
Informal communication networks	Word spreads quickly when inspectors are in an area, so after a few inspections in which violations are found, workers or growers know not to have children working until inspectors have completed their enforcement activities in that area.
Worker demographics	Workers who are working illegally, have not enrolled their children in school, or do not speak English well may not have documentation of the children's age and therefore may fear and distrust enforcement agencies and want to avoid detection.

Enforcement Agencies Have Devoted Declining Resources to Agriculture

The number of recorded inspections in agriculture by WHD, OSHA, EPA, and the states in our review has generally declined in the past 5 years, resulting in fewer opportunities to find potential child labor violations. The number of WHD inspections of the agricultural industry declined from about 5,400 in fiscal year 1993 to 3,500 in fiscal year 1997. Although these inspections accounted for about 14 percent of all inspections in the 5-year time period, the percentage of annual inspections devoted to agriculture declined. In the same period, the percentage of direct enforcement hours devoted to enforcement of child labor law by WHD in all industries stayed at about 8 percent; however, in fiscal year 1997, it was less than 6 percent. Although the decline in agricultural inspections must be viewed in light of declines in WHD enforcement resources over the decade and new responsibilities assigned to WHD, the decline in agricultural inspections was greater than the relative decline in the number of inspectors, for example. Inspections devoted to agriculture declined similarly in California, a state we reviewed. In addition, Florida and Vermont, the other states we reviewed, did not track agricultural inspections or devoted relatively few resources to agriculture in the past 5 years.

OSHA and EPA, which are responsible for enforcing safety and health laws and regulations for agricultural workers, have also devoted declining resources to agriculture in the past 5 years. Although these agencies have no responsibility for detecting child labor violations, farmworker advocates have said the presence—or absence—of other enforcement agencies in agriculture affects the number of violations of all labor laws, including child labor. In addition, because enforcement agencies have established procedures calling for referrals of potential violations of respective laws, OSHA or its state counterpart if detecting a potential child labor violation during one of its agricultural inspections could refer the violation to WHD or the state enforcement agency. In the past 5 years, OSHA and its state counterparts conducted less than 3 percent of all their inspections in agriculture, and, while the total number of inspections OSHA conducted in all industries declined by almost 11 percent, the number conducted in agriculture declined almost by half.[32] States, with guidance and funding from EPA, have also reduced the number of inspections conducted in agriculture—from about 11,000 in fiscal year 1993 to 7,000 in

[32]According to OSHA officials, the relatively few resources devoted to agriculture are due in part to the few standards OSHA has that apply directly to agricultural workers and the prohibitions OSHA faces in inspecting agricultural work places. A recent OSHA initiative to identify those industries and employers with high rates of injuries and lost workdays specifically excluded employers engaged in agriculture.

fiscal year 1997, accounting for about 15 percent of the federally funded inspections by states during this period.[33]

WHD and Selected States Have Found Few Agricultural Child Labor Violations

According to WHD officials, one of the first things inspectors do in every inspection is determine whether children are present, which means that WHD looks for violations of child labor law in every inspection. WHD and state enforcement agencies, according to our review, however, detected few cases of child labor violations in the past 5 years, and the number of cases has generally declined during this period. In fact, WHD detected agricultural child labor violations in less than 1 percent of all agricultural inspections conducted between fiscal years 1993 and 1997. Recently, the Secretary of Labor said that it was difficult to know whether the decline in the number of recorded child labor violations was due to WHD's reduced enforcement activity or a reflection of actual conditions.[34] As shown in table 4.2, WHD detected agricultural child labor violations in only 14 cases (involving 22 children) in fiscal year 1997 under FLSA, which was a decline from the 54 cases (involving 146 children) in fiscal year 1993.[35] Texas had the most WHD cases (44), followed by New Mexico (24), Florida (14), California (12), and Georgia (11). The other states had six or fewer cases each. Most violations involved children too young to work, and about 40 percent of the violations involved children working in vegetable commodities (such as onions, tomatoes, and peppers); another 30 percent involved children working in grain production; 10 percent involved children working in berry planting or harvesting. Similar to the federal experience, states in our review also reported declining cases of child labor violations in agriculture (California) or reported few or no violations (Florida and Vermont). (For more information on these states' experiences with child labor in agriculture, see app. I.)

[33]No EPA data are available on the extent of these resources devoted solely to the use provision of the Worker Protection Standard—the provision protecting farmworkers from occupational pesticide exposure. In addition, EPA does not collect information from the states on the types of violations they have found, such as lack of personal protective equipment or workers entering areas treated with pesticides before the restricted entry interval has elapsed.

[34]WHD, other enforcement officials, and grower representatives said that the small number of violations may reflect the decline in the number of children working in agriculture during this period. They said the number of children working in agriculture was smaller than in the past and less than often assumed. Even if the children were in the fields, these officials said, the children may not necessarily be working. If they are not working, then child labor laws do not cover them.

[35]A child may be working in an agricultural industry but performing an occupation considered nonagricultural under FLSA. For example, a child may be employed by an apricot grower but actually be working in a packing house, packing apricots into crates. In such cases, other FLSA protections may apply—those covering nonagricultural work. This type of situation accounted for over 600 additional child labor violations during this time.

Table 4.2: Characteristics of Agricultural Child Labor Violations Found by WHD, Fiscal Years 1993-97

Fiscal year	Number of cases with violations	Number of children involved in cases
1993	54	146
1994	46	203
1995	36	113
1996	24	62
1997	14	22

Source: WHD.

In addition, according to WHD officials, when they target enforcement activities to detect violations of child labor laws, they see little evidence of violations; the work these children are doing is often within the confines of FLSA. If FLSA's nonagricultural protections for child labor were applied to agriculture, the number of violations found would increase, WHD officials said. Nonetheless, as a result of WHD's first few salad bowl enforcement activities in Texas, New Mexico, and Louisiana, WHD found about 40 children working illegally in the fields, more than found in all of fiscal year 1997.[36]

WHD and State Enforcement Agencies Lack Procedures for Documenting Child Labor Violations

The special challenges presented by the agricultural industry, its dangerous nature as evinced by high injury and fatality rates for its child workers, and its relatively larger number of child workers compared with other industries[37] indicate an important role for enforcement agencies for detecting violations. The limited resources enforcement agencies have devoted to agricultural inspections in general and the decline in such resources in the past few years mean that inspectors must be as efficient as possible when in the field if they are to detect illegal child labor in agriculture. In addition, documented procedures must provide clear guidance to inspectors so they know what to do to detect violations. WHD and the states we reviewed, however, lack documented procedures for use during agricultural inspections to determine whether a child is too young to be working or whether a child is, in fact, working—key conditions required for demonstrating that a violation has occurred. In addition, even

[36]WHD officials said they have also successfully threatened the use of FLSA's "hot goods" provision during salad bowl enforcement efforts to get growers to pay fines or agree to remedial action. The hot goods provision prohibits interstate commerce of any goods produced in violation of the child labor provisions. To do this, Labor must request a temporary restraining order that prohibits a grower from selling these goods. According to WHD officials, however, this has been difficult to apply in the past in agriculture because of crops' time-sensitive nature.

[37]Hired children aged 15 to 17 make up about 4 percent of the hired agricultural workforce but only 2 percent of the hired nonagricultural workforce.

though WHD has established coordination procedures with other federal and state enforcement agencies for conducting joint inspections, referring potential child labor cases to appropriate agencies, and exchanging information to facilitate enforcement efforts, these procedures are not being followed routinely. Finally, it is not clear whether the criteria WHD uses for determining where and when to conduct inspections reflect the potential presence of children.

Agencies Lack Procedures for Documenting Age and Employment of Children Working in Agriculture

The two key conditions required for inspectors to document child labor violations are the child is (1) underage and (2) works for the employer. Although federal and selected state enforcement agencies have general procedures that inspectors must follow for all inspections to detect and document child labor violations, these procedures do not account for the special conditions facing labor law enforcement in agriculture and therefore may be insufficient to detect illegal agricultural child labor.

WHD's Field Operations Handbook specifies policies and procedures for inspectors to follow for all inspections. For documenting child labor violations under FLSA, the handbook requires inspectors to independently verify a child's age through a birth certificate, passport, or some other valid document to determine if the child is old enough to be working or performing a certain task. The states in our review have similar requirements. Both federal and state enforcement officials said, however, that the lack of this kind of documentation or the use of fraudulent documentation is common for children working in agriculture. In many cases, inspectors cannot find adequate documentation to independently verify a child's age. Neither WHD nor the states we reviewed had documented procedures for instructing inspectors in handling this situation, although WHD officials said they had verbally conveyed to inspectors the importance of conducting other activities (such as interviewing workers or teachers) to independently verify a child's age. Given the constrained and declining resources allocated to agriculture, inspectors may not be able to perform these additional activities, especially since they are not specified in official agency documentation. In these cases, inspectors would not be able to cite an employer for an FLSA child labor violation.

If an employer does not have a child's age on file as required by FLSA, an inspector may cite the employer for a record-keeping violation, which carries a maximum initial civil monetary penalty of $275. Enforcement action may end at that point if the inspector cannot independently verify

the child's age. The lack of documented procedures for additional activities for verifying the child's age suggests that at least, in some cases, inspectors would detect a record-keeping violation rather than a child labor violation.

The second condition required for inspectors to document a child labor violation is that the child is working. Children working under their parents' payroll number or helping out before or after school and on weekends are common work arrangements in this industry. Therefore, documents such as payroll records may not reflect children's work. These are the types of records, however, that enforcement guidance requires inspectors to examine for initially determining whether children are working. Neither WHD nor these states have issued formal documented procedures for instructing inspectors in situations in which they sense children are working at the work site such as interviewing workers off site. WHD officials said they have trained inspectors and issued informal guidance in the past to inspectors about what activities to perform during agricultural inspections to address these problems. Our review of this guidance failed to identify any such specific instruction to inspectors for detecting illegal child labor or actions inspectors should take when available information fails to identify a child's work history. WHD officials said, however, that some inspectors have used videotapes to document children working, and, under the salad bowl initiative, inspectors have used still photographs to document children working.[38] Without documented, official procedures, however, and given the scarce resources allocated to agriculture and the low incidence of detected child labor violations, little assurance exists that all inspectors are taking photographs, interviewing workers, or doing other activities necessary for systematically and consistently documenting violations.

Procedures for Facilitating Coordination Not Routinely Followed

Inspectors may not be detecting violations because procedures WHD has established for facilitating coordination with other federal and state enforcement agencies are not always being followed. The patchwork of laws, many federal and state agencies involved, limited resources each agency has devoted to agriculture, and characteristics of this industry make coordination and cooperation vital for detecting illegal child labor in agriculture. WHD has acknowledged the role of coordination in helping to identify child labor and other violations by establishing agreements with the state labor enforcement agencies, OSHA and its state counterparts, and

[38]For an upcoming enforcement effort in California, state inspectors will have cameras for photographing violations.

the Department of Justice's Immigration and Naturalization Service, among others. These agreements establish an understanding that cooperative efforts are to be taken to ensure that the employment conditions of agricultural workers, including children, fully comply with federal and state statutes. Among other things, the agreements call for (1) referring complaints of or suspected violations of applicable statutes, when appropriate, to the agency with jurisdiction; (2) conducting joint investigations of employers when appropriate; or (3) exchanging records and information, including information on which employers have been cited or subject to remedial or punitive sanctions.

According to our interviews with federal and state officials and a review of available data, agencies' actions fell short of the agreements' requirements, and, in many cases, no controls were in place to alert WHD that procedures were not being followed.

Jurisdictional Confusion and Limited Referrals

Enforcement officials we interviewed generally could not recall any specific cases they had referred or that had been referred to them regarding illegal child labor in agriculture. In addition, databases maintained by WHD and other enforcement agencies collect little information on referrals given or received, although at least one agreement specifies that agencies establish systems to monitor and track referrals. Moreover, several officials told us that if they were not legally responsible for looking for children during agricultural inspections, they would probably not even recognize a potential child labor case so they would most likely not refer it. Furthermore, enforcement officials also disagreed about who has jurisdiction for particular cases or for certain employers. WHD officials could not identify whether a procedure existed for determining how to handle case referrals, and at least one state enforcement agency told us that WHD hesitated to take such referrals.

Limited Participation in Joint Federal-State Inspections

At least some of the agreements between WHD and state labor agencies call for joint inspections to present a unified front to employers and take advantage of the varying strengths of federal and state laws. Other than as a part of California's Targeted Industries Partnership Program (TIPP),[39] however, officials believe few, if any, joint inspections have been conducted by WHD and the states. In addition, databases do not consistently identify whether inspections are conducted jointly. Even TIPP

[39]Instituted in 1992, TIPP is a joint federal-state effort to leverage resources, while focusing on two high-risk industries—garment manufacturing and agriculture. Partners in TIPP include the California Division of Labor Standards Enforcement, WHD, California's OSHA, and the California Employment Development Department. Representatives from the state labor agency, WHD, and OSHA are supposed to jointly conduct inspections as well as education efforts and outreach to employers.

is not as unified an effort as it used to be, according to California's state Commissioner of Labor. TIPP calls for federal and state agencies to develop their inspection agendas together and provide staff from federal and state agencies for all inspections. What actually happens, however, is that each agency develops its inspection agenda for the year and agrees to do joint inspections when possible. A comparison of the number of TIPP inspections conducted (from California's database) with the number of inspections conducted by California's WHD (from WHD's database) highlighted fewer inspections performed by WHD than California, even though both agencies were supposed to be involved in all TIPP inspections.

Poor Exchange of Information

A general lack of communication and exchange of information exists among WHD and OSHA, EPA, and selected state enforcement agencies. Even in TIPP, which is a key example of federal-state cooperation, individuals from both federal and state enforcement agencies involved told us of difficulties exchanging information and coordinating enforcement agendas. In addition, neither California nor Florida labor officials had been involved in any of WHD's decisionmaking about which employers to target or when or how to conduct the inspections under the salad bowl initiative. In June 1998, WHD held a half-day stakeholders meeting in Washington, D.C., to discuss enforcement priorities for the next several years. According to several state representatives present, although this event was a positive step toward enhancing communication with the states, it appeared that WHD had already decided on its priorities because little time was allotted for state input and feedback.

Criteria Used to Determine Where and When to Conduct Inspections May Not Reflect Likely Presence of Children

Inspections may not be conducted where and when children are most likely to be working, possibly resulting in the detection of fewer child labor violations. According to WHD officials, WHD targets its agricultural inspections to employers with a history of low-wage payments, those who use imported workers, or those with excessive injury rates but not necessarily to those who are suspected of employing children. In addition, WHD officials acknowledged that finding children requires inspectors to be in the fields early in the morning or on weekends, but it is not clear how many of WHD's agricultural inspections in the past 5 years have been conducted at those times. Because staffing decisions are made by local WHD offices, it is also unknown whether WHD's staff, which is bilingual (over 25 percent, according to WHD), is involved in agricultural inspections to help communicate with workers.

For example, although the salad bowl initiative has a major emphasis on identifying illegal child labor, these commodities were not chosen because of the likely presence of children; and the commodities covered under this initiative (cucumbers, lettuce, onions, garlic, and tomatoes) may not be the only ones on which children work. WHD officials said the criteria for selecting the employers and work places that produce these commodities were the low-wage nature of the work, compliance history of these types of employers, and widespread production of these commodities; therefore, many WHD local offices could be involved in the initiative. However, employers in cucumbers do typically employ families, according to reports officials have heard. Prior enforcement data indicate that children also work on commodities, such as peppers and grains, and farmworker advocates said that children also probably work in berries. Therefore, the salad bowl inspections may not be targeting the major employers of child workers. In addition, officials did not know the number of WHD's bilingual inspectors involved in the salad bowl inspections, so whether inspectors will be able to talk to workers to identify potential violations is unclear.

Enforcement Databases Do Not Identify Children's Involvement in All Labor Law Violations

Because the enforcement databases used by WHD and other enforcement agencies do not provide information on children's involvement in particular violations, the extent to which children are involved in other labor law violations in agriculture is underreported.

WHD Database Does Not Identify FLSA Child Labor Record-Keeping Violations

FLSA requires employers to have the age of their child workers on file. If employers do not do this, they may be cited for a record-keeping violation under FLSA—the only record-keeping violation under FLSA that has a civil monetary penalty. The information recorded on the violation would not, however, identify this as a labor violation. Because of the characteristics of this industry and its workforce and the lack of documented procedures for inspectors in conducting additional activities to independently verify the children's age, inspectors sometimes use this particular provision to cite employers who cannot be cited for child labor violations because of the missing records.

WHD, however, cannot identify the number of record-keeping violations involving children each year. In addition, WHD's penalty database (a separate financial database that tracks all penalties assessed and collected) does not identify specific violations; therefore, WHD cannot

determine the amount of penalties assessed or collected resulting from record-keeping violations involving children. The lack of information about FLSA violations involving children indicates that WHD is underestimating the amount of child labor activities that violate FLSA.[40]

Children's Involvement in Other Labor Law Violations Is Not Recorded

Children's involvement in violations of laws other than FLSA's child labor provisions is unknown because enforcement agencies, such as WHD, OSHA, and EPA, have traditionally had a narrow view of what constitutes illegal child labor. WHD is the only federal enforcement agency required to collect any age information on individuals involved in violations but only does so when inspectors believe a potential child labor violation may exist. Because other agencies do not have to identify child labor violations, they do not collect age information on individuals involved in violations. These practices may obscure violations of other labor or safety and health laws involving children. If these agencies' data systems could identify the extent to which violations of these other laws involve children, enforcement efforts could be targeted to those employers or areas that systematically exploit working children.

Citations issued by WHD to employers for not paying their workers the minimum wage may involve a substantial number of children. Minimum-wage violations occur when employer records reflect wages paid only to the parent when the work was actually performed not only by the parent, but also by a child. In addition, unaccompanied minors (which NAWS reported made up a significant portion of hired farmworkers between 14 and 17 years of age) may be especially susceptible to being paid less than the minimum wage because of their youth and lack of adult supervision and protection. NAWS reported that about 8 percent of 14- to 17-year-old hired farmworkers reported they do not receive the minimum wage. Although WHD found over 350 minimum-wage violations for agricultural employers in fiscal year 1997, WHD has no data on the number of citations, if any, issued for minimum-wage violations that involved children. If such data were available, it would not only better reflect children's involvement in all violations, but it might also reveal the extent

[40]It is instructive to contrast this situation with California, a state that requires employers to have work permits (a document validating the child's age and the hours the child is allowed to work) on file for each child under 18 employed. If employers do not have these permits, they can be cited for violating California's child labor law. Although this situation is similar to the FLSA record-keeping violation, California tracks these types of violations as child labor violations. According to the California state Commissioner of Labor, a work permit violation also constitutes a work hours violation because a child cannot work for any number of hours without a work permit. Work permit violations accounted for the majority of violations that California detected in the past several years.

to which agricultural employers may purposely exploit families and their children in this way or systematically prey on younger workers.

In addition, other types of labor law violations most likely involve children. Last year, WHD found more than 900 MSPA violations (MSPA requires employers to provide promised wages, adequate housing conditions, and safe transportation). OSHA found over 175 violations of employers not providing hired farmworkers adequate housing conditions, but the extent to which the violations involve children under 18 is unknown. NAWS reported that over a quarter of farmworkers had children living with them and about a tenth of farmworkers interviewed said that at least occasionally they took children 5 years of age or younger to the fields with them when they worked. Moreover, NAWS data show that about 9 percent of young agricultural workers help to apply or otherwise work with pesticides, but they are less likely to have been trained in pesticide handling than older workers. Finally, EPA rarely collects specific information on the type of violations under the use provision of the Worker Protection Standard, although state agencies may collect such data; children's involvement in these violations, however, is not captured.

Limited Data Affect Assessment of Progress in Reducing Illegal Child Labor in Agriculture

The Secretary of Labor has stated that reducing illegal child labor in agriculture is a major agency priority, and, under the Results Act, WHD has committed to a 5-year effort to reduce such labor. WHD collects a considerable amount of information on its enforcement activities regarding child labor. It has several different databases in operation; however, several inconsistencies, omissions, and other limitations in these databases may affect the usefulness of the data for program oversight. WHD has committed, through the Results Act, to developing new databases by the year 2002, but it is unclear whether these new databases will address these limitations.

For example, data from WHD's enforcement database[41] were internally inconsistent or were not comparable with other databases, which affects their usefulness for program evaluation. Data for historic yearly inspections conducted, violations detected, and children involved changed in different data runs provided by WHD. Officials said this was to be expected because the system is updated continuously. In another instance, a case that WHD headquarters data showed to be a violation was not a violation according to the local WHD office that investigated the case. Large

[41]This database—called the Wage and Hour Information Management System—tracks enforcement activity such as number of inspections conducted, number and type of violations found, and number of children involved in the violations.

discrepancies also existed between the historical number of inspections conducted by WHD in California and those recorded by California for TIPP. For example, 286 WHD inspections were conducted in agriculture in fiscal year 1997 compared with 455 TIPP inspections in calendar year 1997, even though WHD and California labor inspectors should be involved in all TIPP inspections. Neither federal nor state officials could sufficiently explain these discrepancies.

Also, despite the amount of data collected by WHD, it has been unable to determine which child labor violations resulted in civil monetary penalties. According to WHD officials, its financial database (which tracks the civil monetary penalties assessed on employers for violations of FLSA, MSPA, and other laws) is not comparable with its enforcement database. If the databases were comparable, WHD could determine which violations have resulted in which penalties. WHD officials said the only way they could determine penalties for individual violations would be to manually review individual case files. This inability to compare and disaggregate types of violations with penalties is related to an issue that surfaced in 1997—that agricultural employers were being assessed lower penalties than employers in other industries for similar child labor violations.[42]

[42]Another reason for the difference in penalties is that the guide inspectors used to determine penalty amounts for employers provided for lower penalties for agricultural employers than for employers in other industries. WHD standardized this guide in 1998 to equalize recommended penalty amounts for employers in all industries for similar child labor violations.

Information Is Not Available for Assessing Results of Education and Labor Programs on Children in Migrant and Seasonal Agriculture

The social and economic disadvantages experienced by many children in migrant and seasonal agriculture place them at great risk of academic failure. Although both Education and Labor administer programs that target children with educational and economic disadvantages, the extent to which children involved in migrant and seasonal agricultural work participate in, or are helped by, these programs is generally unknown. Except for the programs that target only migrant and seasonal farmworkers and their children, Education and Labor's program information does not classify participants by occupational status. Even those few programs that target children working in agriculture or children whose parents work in migrant and seasonal agriculture have limited data. Of these programs, Education's MEP and Labor's MSFWP are the largest ones providing services to youths in the critical ages of 14 to 17, the ages when students are most likely to drop out of school. In the case of MEP, decentralization and flexibility complicate the collection of data needed to measure results. In the case of MSFWP, the program's focus on adults' employment needs discourages the collection or analysis of information on children.

Conditions Facing Children in Migrant and Seasonal Agriculture Adversely Affect Their Academic Achievement

Poverty, limited English ability, and rural and social isolation place children in migrant and seasonal agricultural work—like any other group of children affected by these social conditions—at considerable risk of academic failure. For these children, however, the difficulties associated with these social conditions are compounded by mobility and other conditions of agricultural work that result in school enrollment rates and high school completion rates among the lowest in the nation. For example, according to one source, 45 percent of migrant youths had dropped out of school, entering the full-time workforce without the credentials and skills needed to compete for any but the lowest paying jobs.[43]

Excessive Mobility Affects Educational Performance

Migrant children in agriculture experience two types of mobility that compound the other social problems they face. The first type concerns moves from one geographical area to another. For low-income children, particularly those who are migrant workers or children of migrant workers, schooling is frequently interrupted and school days are lost because of moves among school districts and states. Migrant children move, on average, 1.2 times a year. Such moves not only disrupt schooling,

[43]Association of Farmworker Opportunity Programs, 1998.

but also often prevent the development of social and community ties that can facilitate school attendance and educational achievement.[44]

The second type of mobility concerns movement in and out of schools. Economic pressures drive many of these children, particularly those aged 14 and older, from the schools into the fields. According to some estimates, between 169,000 and 200,000 youths were working in agricultural migrant jobs, and, of this group, almost half were living independently; that is, their families were not with them.[45] Although girls are less likely than boys to work in agriculture, girls' schooling can nonetheless also be interrupted because they must care for other family members.

Working Long Hours Has Negative Effects on Educational Performance

Working long hours can also negatively affect the academic performance of young farmworkers. To the extent that children are working instead of attending school, they cannot benefit from school-based programs or interventions. Even if children are attending school, working too much can interfere with their learning. Research findings indicate that working more than 20 hours a week during the school year can negatively affect student achievement to a significant degree. NAWS data show, however, that many children in agriculture work 35 hours a week or more. Although some of these work hours might be during the summer, peak demand periods for agricultural work also take place during the fall and spring when the school year begins and ends.

High School Completion and School Enrollment Rates of Children in Agriculture Are Among the Lowest in the Nation

Children in agriculture are less likely to be graduated from high school and to attend school than are other groups of youngsters, although estimates vary. For example, estimates of dropout rates ranging from 45 to 90 percent have been cited for migrant and seasonal agricultural workers. In comparison, data from the 1990 Decennial Census indicate that dropout rates of 16- to 24-year-old individuals ranged from 10.3 percent for non-Hispanic white youths to 30.5 percent for Hispanic youths. For

[44]Problems associated with transferring educational records exacerbate the effects of mobility. Transferring records between school districts often takes from 2 to 6 weeks. Transferred information is often insufficient to ensure appropriate placement. The Migrant Student Record Transfer System (MSRTS), a computerized system designed to track the educational progress of individual migrant students and to transfer records, tried to solve these problems. We previously reported that MSRTS was slow, incomplete, and infrequently used. See Elementary School Children: Many Change Schools Frequently, Harming Their Education (GAO/HEHS-94-45, Feb. 4, 1994). The Congress terminated funding for MSRTS in 1994.

[45]This particular estimate is from the National Commission on Migrant Education but is consistent with NAWS data that unaccompanied minors make up over a third of all 14- to 17-year-old agricultural workers.

low-income Hispanics, the rate increased to 35.5 percent, far lower than the rates reported for migrant youths, although these groups have common ethnic and income characteristics.[46]

Although school attendance is a problem for all children in agriculture, it is particularly so for children of foreign-born agricultural workers. According to NAWS data, the children of farmworkers born in the United States are twice as likely as the children of foreign-born farmworkers to be enrolled in U.S. schools in the prior 12 months. Seventy-six percent of children of U.S.-born non-Hispanic farmworkers were enrolled in school compared with 34 percent of children of foreign-born farmworkers. For children who are farmworkers, school attendance rates are even more problematic. According to NAWS, about 68 percent of 14- to 17-year-old farmworkers born in the United States were enrolled in school when they were interviewed compared with 16 percent of farmworkers in this age group born outside the United States.

Youths in Agriculture Aged 14 to 17 Face Particular Educational Challenges

The years between ages 14 to 17 are critical educational years because during these years youths are most likely to drop out of school. For many of these youths, the pressures to leave school may be particularly great. Beginning around age 14, these youths become legally and competitively employable for farm work, which allows them to supplement their family's income, and, in some cases, to try to achieve economic independence. Meanwhile, some of these youths, particularly those who are older and overaged for their grade, may associate school experiences with failure and the opportunity for them to be graduated might appear remote. For example, according to NAWS, more than 90 percent of farmworkers' children aged 13 or younger who were in school were "on grade level," that is, had completed a grade appropriate to their age, but this measure dropped to about 80 percent for 14- to 16-year-old students and to 71 percent for 17-year-old students.

Many Programs Provide Educational Assistance to Disadvantaged Youths

Education and Labor administer many programs that target educationally and economically disadvantaged children and youth. Tables 5.1 and 5.2 list major programs that provide direct educational services of about $14 billion to millions of educationally and economically disadvantaged youths of all ages, including those we defined as school aged (6 to 17). Children

[46]These rates are not directly comparable because agricultural workers and Hispanic individuals are different groups. Although most agricultural workers are Hispanic, most Hispanics are not agricultural workers. Of all 16- to 24-year-old Hispanic dropouts, about 36 percent were U.S. born and 64 percent were born outside the United States.

and youths in agriculture are eligible for services from all these programs on the same basis as others—except for those programs that specifically target children in agriculture. Program data that describe the participation of children in migrant and seasonal agriculture is only available from programs that target only these groups such as MEP, the Migrant High School Equivalency Program, and MSFWP.

Table 5.1: Education Programs Providing Direct Instructional Assistance to Educationally Disadvantaged Children and Youth

Program name	Program purposes	Program beneficiaries	Examples of funded services	Funding mechanism	Total funding in millions[a]	Average spending per participant[b]
Title I Grants to Local Education Agencies (LEA)	To help LEAs and schools improve the teaching and learning of children failing, or at risk of failing, challenging state standards	Children who are failing, or at most risk of failing, challenging state standards and who attend schools with high percentages of low-income children	For schools operating schoolwide programs, funds are used in combination with funds from other federal, state, or local funds to upgrade the school's instructional program and for other schools to support targeted assistance programs	Formula grants	$7,541	$1,000
Special Education Grants to States	To provide grants to states to assist them in providing a free appropriate public education to all children with disabilities	Children and youths aged 3 to 21 with disabilities	To provide special education and related services to all eligible children	Formula grants	3,249	600
Bilingual Education Grant Programs	To develop and carry out activities to meet the educational needs of children of limited-English proficiency and to build the capacity of local educational programs	Children of limited-English proficiency	To establish, operate, or improve programs of bilingual instruction or alternative methods of instruction	Discretionary	199	Not available

(continued)

Program name	Program purposes	Program beneficiaries	Examples of funded services	Funding mechanism	Total funding in millions[a]	Average spending per participant[b]
MEP	To help states ensure that migrant children have the opportunity to meet the same challenging state standards that all children are expected to meet	Children, aged 0-21, of migrant agricultural workers or of migrant fishers, including children who are workers and their spouses, who have moved across school district lines during the past 36 months to obtain employment in agriculture, fishing, or related employment	To support high-quality, comprehensive educational programs that address the needs of migrant children	Formula grants	299	400
Immigrant Education	To provide assistance to states for educational costs and services for immigrant children	Immigrant children enrolled in public and private elementary and secondary schools	To provide supplementary educational and instructional services and in-service training	Formula grants	150	57
Education for Homeless Youth	To ensure that homeless youths have equal access to the same free appropriate education as other children, to provide services to ensure that they enroll, attend, and succeed in school, and to establish an office in each state educational agency (SEA) for coordinating the education of homeless youths to heighten awareness of their specific problems and provide grants to LEAs	Homeless children and youths in elementary and secondary schools and homeless preschool children and parents of homeless children	For a wide variety of activities that benefit homeless children and youths, including tutoring, summer enrichment programs, the provision of school supplies, and professional development designed to increase educators' understanding of and sensitivity to the needs of homeless youths	Formula grants	27	Not available

(continued)

Program name	Program purposes	Program beneficiaries	Examples of funded services	Funding mechanism	Total funding in millions[a]	Average spending per participant[b]
Star Schools	To encourage improved instruction in academic subjects and serve underserved populations	Elementary and secondary school students and teachers	To assist telecommunications partnerships within and among states in schools with high percentages of title I-eligible students, particularly those schools that serve traditionally underserved populations; individuals traditionally excluded from careers in mathematics and science; areas with scarce resources and limited access to courses in mathematics, science, and foreign languages	Discretionary	26	2 million per grant
Migrant Education High School Equivalency Program	To assist students who are engaged or whose parents are engaged in migrant or other seasonal farmwork to obtain the equivalent of a high school diploma and subsequently to gain employment or attend an institution of higher education or other postsecondary education or training	People aged 16 and older who lack a high school diploma who are engaged or whose parents are engaged in migrant and other seasonal farmwork or who have participated in MEP or MSFWP	To recruit and provide academic and support services to migrant students to obtain the equivalency of a high school diploma	Discretionary	7.6	2,067
Migrant Education Technology Grants	To explore the use of technology to combat problems of disruption, lack of resources, and language difficulties that have plagued children of migrant workers	Children of migrant worker families	To obtain and use technology to extend opportunities to migrant children and to leverage funds to increase resources	Discretionary	3	500,000 per grant

(Table notes on next page)

[a]Fiscal year 1998 estimates of total federal spending.

[b]Obtained by dividing total estimated spending by estimates of number of participants.

Sources: Catalog of Federal Domestic Assistance and the Department of Education.

Table 5.2: Labor Department Programs Providing Job Training and Educational Support to Economically Disadvantaged Youths

Program name	Program purposes	Program beneficiaries	Examples of funded services	Funding mechanism	Total federal funding in millions[a]	Average estimated spending per participant[b]
Job Training Partnership Act (JTPA) Title II-B-Summer Youth Employment and Training Program	To establish programs to prepare youths facing barriers to employment for participation in the labor force	Economically disadvantaged youths aged 14-21[c]	Basic and remedial education, on-the-job training, work experience, and employability assessment	Formula grants to states	$871 (CY)	1,600
JTPA Title II-C-Economically Disadvantaged Youth Training Program	To establish programs to prepare youths facing barriers to employment for participation in the labor force	Economically disadvantaged youths aged 16-21 or 14-21 if provided for in a job training plan[c]	Tutoring, mentoring, on-the-job training, work experience, and educational assistance	Formula grants to states	130 (FY)	1,000
Job Corps	To prepare youths for independence and productive employment	Economically disadvantaged youths aged 16-24 from disruptive environments[c]	Occupational exploration, world of work and social skills training, and competency-based and basic education	Discretionary	1,203 (PY)	17,000
MSFWP	To provide job training and search and supportive services to enable farmworkers and their dependents to obtain and retain jobs	Migrant and seasonal farmworkers, aged 14 to adult, and their dependents	Classroom training, on-the-job training, work experience, and educational assistance	Grants awarded competitively, allocations determined by formula	69 (PY)	500

[a]Fiscal (FY), calendar (CY), or program year (PY) 1998 estimates of total federal spending.

[b]Obtained by dividing total estimated spending by estimates of number of participants.

[c]Members of families that receive public assistance or whose annual income does not exceed the higher of either the poverty level or 70 percent of the lower living standard income level.

Sources: Catalog of Federal Domestic Assistance, Guide to Federal Funding for Government and NonProfits, and the Department of Labor.

Although Education does not collect program data on the participation of migrant children in the programs that do not specifically target migrant children, data from a national program evaluation suggest that migrant children may not receive services from many of these programs to the extent that they are eligible. A 1992 assessment found that only about half of the migrant students receiving services from MEP who were also eligible for services funded through the title I program received title I services.[47] In addition, about 9 percent of the students receiving assistance through MEP participated in the federal bilingual education program (although about 84 percent come from families that speak little or no English), and only 5 percent of children receiving assistance from MEP were in special education (compared with about 10 percent of all school-aged children). Interviews with Education officials indicated that migrant children may continue to be underrepresented in programs that do not specifically target these children.

Although programs administered by Labor collect extensive information on participants, data from these programs, except for MSFWP, do not classify participants according to whether they are in migrant or seasonal agriculture. For example, data collected by the Job Training Partnership Act's (JTPA) title II-C program for economically disadvantaged youths classifies participants on their status regarding 13 employability barriers, including substance abuse, lack of significant work history, and homelessness, and on 19 other characteristics, including family composition, reading skill level, and preprogram hourly wage but does not classify individuals who are migrant or seasonal agricultural farmworkers.

In contrast to services from Education's title I and special education programs that are available through almost every school district nationwide, accessibility issues limit the potential of Labor programs to help youths in migrant and seasonal agriculture. First, to establish eligibility, youths must have records that document their citizenship or work authorization, work experience, and family income level.[48] Second, the number of individuals who want to participate in these programs far exceeds the number that can be served. For example, funds for JTPA title II-C are available to serve only 5 to 10 percent of the eligible population. Third, distance and transportation costs may prevent these youths from

[47]This assessment collected data from a sample of schools to obtain data that were not available through program operations and routine data collection efforts. Descriptive Study of the Chapter I Migrant Education Program, Research Triangle Institute (Research Triangle Park, N.C.: 1992).

[48]Title II-C grantees may operate schoolwide projects to serve all students in a high-poverty school. In this case, individual students need not be certified as meeting eligibility requirements.

participating because services are not available in all farm communities. Finally, the design of some programs limits their ability to serve agricultural workers. For example, JTPA title II-B, the Summer Youth Employment and Training Program, offers only summer services, which is when youths are most likely to be working in agriculture. Although we do not know the extent to which migrant and seasonal farmworker youths participate in job training programs that do not specifically target them, only 8 percent of the individuals under age 22 who terminated from MSFWP in 1996 participated concurrently in any other federally funded training program while they were receiving services from MSFWP. In comparison, 19 percent of out-of-school youths served by the JTPA II-C program received concurrent services from another federal program.

Program Operations and Data Limitations Impede Assessing MEP and MSFWP Results

Of the key educational and labor programs that serve disadvantaged youths, MEP and MSFWP are the largest that target youths in migrant and seasonal agriculture. These programs, therefore, have the most potential to provide educational opportunities to these youths between the ages of ~~14~~ and 17 who may be at the greatest risk of educational failure. Program operations and associated data limitations preclude, however, measuring program results for these youths.

Program Decentralization and Flexibility Complicate Measuring MEP Results

MEP, the largest Education program that targets these youths, is a federal assistance program administered largely by the states. Within broad federal guidelines, state educational agencies (SEA) determine how funds will be redistributed to the local educational agencies (LEA) and other eligible entities and, in cooperation with LEAs, decide how MEP funds can best be used to support state and local programs to help migrant children. This decentralization and flexibility limit the ability to evaluate MEP on a national level because program goals and activities vary by site. In addition, because MEP is an assistance program, its effects cannot be separated from those of the much larger state and local efforts that it supports.

States Have Substantial Flexibility in Using Funds and Providing Services

The Improving America's Schools Act of 1994, which reauthorized MEP, requires recipients of MEP funds to give priority for services to eligible children who are failing, or at risk of failing, to meet the state's educational standards and to those who are currently migrant and whose education has been disrupted during the regular school year. Under these priorities, however, the parameters of state and local decisionmaking are broad. States and localities determine if funds will be used for regular term or summer term activities, which grade levels will be served, which

instructional or supportive activities will be provided and by what type of service provider, and whether funds will be used to provide separate services or combined with other funds to support common activities.

As a result of this flexibility, the probability that a child will be identified as eligible for MEP services and the type of services that will be received depend largely on where the child attends school because SEAs and school districts differ in the emphasis placed on recruiting, the age group recruited,[49] and the services provided. Typically, active outreach takes place only in areas that have received MEP funds. Some outreach efforts are aimed at particular age groups, such as preschool children or out-of-school youths. In general, national program data from recent years indicate that proportionately more children in grades 1 to 6 are served than those in other grades. Also, although the percentage of preschool participants has increased, the percentage of secondary school participants has actually decreased.

MEP's Effects Cannot Be Disaggregated From Effects of Larger State and Local Efforts

MEP's effects on educational outcomes are difficult to measure because MEP funds are used in combination with funds from state, local, and other federal programs to achieve common educational goals. The relatively small size of MEP's contribution adds to this difficulty. Estimated resources available from MEP, an average of $400 per participant, constitute only a small fraction of the resources that a participant typically receives through state and local school programs. Because of this, MEP funds are generally used to provide educational activities that improve children's achievements in regular classroom activities. Usually, these activities consist of academic tutoring; before- and after-school programs; professional development activities for educators; and supplemental services such as health, social service, outreach, and coordination services.

If schools meet certain criteria, they may combine MEP funds with other federal, state, and local sources to support activities that aim to improve the learning of all children in the school, including those who are not educationally disadvantaged. In school year 1995-96, 1,541 schools used MEP funds to support schoolwide efforts.

Usefulness of MEP Data for Accountability and Program Improvement Is Limited

No program data are available to assess state compliance with MEP's legislatively mandated service priorities or to measure MEP results. Education collects a considerable amount of information from the states

[49]For example, although preschool children average about 20 percent of MEP participants at the national level, at the state level, preschool participation ranges from 46 percent (in Maryland) to 0 percent (in Washington, D.C.).

on MEP participation, staffing, and services, and has for many years, but these data cannot be used to measure program accomplishments or states' progress in meeting national service objectives.

Although the Improving America's Schools Act requires states to give priority in the MEP program to serving students who are achieving at low levels and who have moved within the academic term, Education collects no data on either of these characteristics. The lack of achievement data is understandable because of the decentralized nature of U.S. education.[50] Collecting data on mobility, however, is feasible and would provide information to determine the extent to which states are following national priorities. Before 1993, Education routinely collected counts of MEP participants according to their status as actively or formerly migrant. As we and others have reported, this distinction is important because MEP has historically served more children classified as formerly migrant than children classified as currently migrant, suggesting that some children may have gotten priority because they were not mobile and therefore easier to serve.[51]

Education Is Taking Positive Steps to Address MEP Data Limitations

Education has begun several initiatives designed to obtain information on the academic achievement of migrant children and to increase information on the use of MEP funds. Such information will most likely facilitate program assessment in future years. By the year 2000, Education plans to collect data from each state on the results of assessments of student proficiency in meeting state standards. Results will be reported in a way that allows data to be disaggregated for various student populations, including migrant students. Thus, outcome information on the academic level of all migrant children will be available, and changes in proficiency can be measured over time. Education's Planning and Evaluation Service is completing a congressionally mandated study of the relationship between schoolwide programming, in which funds from several programs are combined to improve services for all students and for migrant children. This study will address questions about possible changes in the levels of services provided migrant children as a result of schoolwide programming.

In addition, Education plans to use its standard data collection systems for collecting additional information on migrant children. This information

[50]This is because the United States has no national educational standards or a national test that might provide a common measure of educational need. In addition, states' progress in developing standards and standard-based assessments differs, and many states have no such systems yet.

[51]See GAO/HEHS-94-45, Feb. 4, 1994.

will include counts and descriptions of services received by migrant students from funding sources other than MEP; the types of activities undertaken by school districts; information on record transfer practices; and district-level counts of migrant children in summer and regular term programs. Education also now publishes individual state profiles as part of the state title I Migrant Participation Report, providing policymakers and practitioners with state-by-state descriptions of services provided by MEP.

Adult Focus and Resource Constraints Affect MSFWP's Services for Youths

MSFWP is a federally administered employment and training program for individuals aged 14 and older that has traditionally focused on the employment needs of adults. Reflecting this focus, MSFWP does not report information for participants aged 14 to 17 or track program results separately for this age group. Although many believe that MSFWP can play a key role in improving the employability of these youths, the focus on adults constrains the resources available for youths and the attention given to them. Consequently, Labor has neither established nor encouraged service delivery standards or outcome measures for youths under 18.

Program Activities and Outcome Measures Reflect Focus on Adults

Unlike other JTPA programs that serve either children or adults, MSFWP has the broad mission of serving both youths and adults. It is a job training program designed to help migrant and seasonal agricultural workers aged 14 and older obtain or retain upgraded agricultural employment or nonagricultural employment. It also aims to provide educational and support services to farmworkers and their families that contribute to their occupational development, upward mobility, and economic self-sufficiency. The program is administered through discretionary grants awarded by Labor to 52 grantees who are held accountable for complying with many uniform federal regulations and meeting national performance outcome standards.

The program's procedures, operations, and outcome measures primarily reflect the employment needs of adult participants, and Labor has not developed separate requirements, guidelines, or outcome measures to gauge its effectiveness in serving youths. For example, youths must meet the same eligibility requirements as adults, even though such requirements may deter some youths from participating. This can be a particular deterrence for unaccompanied youths because they often have no receipts

to document earnings or records to verify family earnings.[52] In addition, grantees are held accountable for meeting or exceeding two national program outcome measures, regardless of the age mix of participants served. These outcome measures—placement rates and the average wage at placement—reflect employment rather than educational goals. Education-related outcomes, such as returning to full-time school, completing high school or entering other training, are also reported for participants by grantees, but these outcomes are not used to measure program results.

These employment-related outcome measures may be more appropriate for adults than youths. Although adult and some youth participants may want jobs, academic instruction and work-related behavioral skills outcome measures may be more appropriate for most youths because their work experience is probably more limited than adults' and the job market they will face in the future will probably be more competitive. This may be the case for out-of-school youths especially, who will probably need additional education and skills to find long-term productive employment.

Funding Levels May Restrict Youths' Participation

MSFWP resources are not adequate to serve all eligible adults, much less all eligible youths, and the lack of resources might have a larger impact on youths' program participation than adults'.[53] Program officials told us that MSFWP often operates as a "triage program" because resources are not adequate to serve all who are eligible. Although officials could not tell us the number of eligible individuals who were denied services or their characteristics because this information is not collected, they agreed that the demand for MSFWP services exceeds available resources. Expenditure constraints apply to all grantees, regardless of the ages of individuals served. Consequently, decisions might be made favoring the participation of more employable individuals, which might exclude those under 18.

In addition to inadequate MSFWP funds, the availability of external funding limits program participation. Although grantees may receive funds from

[52]To receive program services, applicants must document that they performed qualifying employment during 12 consecutive months out of the 24 months before the application and that they are a member of a family that receives public assistance or whose annual income does not exceed the higher of the poverty level or 70 percent of the lower living standard income. In addition, as in other job training programs, applicants must be U.S. citizens or be authorized to work in the United States and have met Selective Service registration requirements.

[53]In addition to overall funding limitations, grantees are also limited in allocating the funds they receive. Although grantees have some discretion for allocating these funds, all must spend no more than 20 percent on administration, no less than 50 percent on training, and no more than 15 percent on nontraining supportive services.

other federal, state, or local programs, almost all rely heavily on MSFWP funds. A 1994 MSFWP evaluation found that, from a sample of 18 grantees, 6 had limited in-kind or no resources other than MSFWP funds and an additional 8 grantees received external funding that made up 15 percent or less of their total budget. Four, however, received substantial external resources that made up 50 percent or more of their budget. According to most estimates, however, the need for services has increased in the last few years, while resources have not. For example, grantees in California told us that the availability of external funds, including funds from Education, has declined, while the funding level of MSFWP declined from 1995 to 1996 but has remained level since.

Program officials said that limited resources seriously affected their ability to serve youths because they hesitated to divert funds from adults to youths, who might be better served in schools. They indicated that priority for services is given to adults who have less access to alternative programs and who may be more likely to benefit from the services than youths. Officials mentioned that a program set-aside, such as the one that exists for Native American youths, would allow them to provide services to youths that would not detract from the services they offer to adults.

MSFWP Collects No Specific Participation and Outcome Data for Youths Aged 14 to 17

Educators, farmworker advocates, and others believe that MSFWP provides essential services for youths, particularly out-of-school youths, because program services are geographically accessible to agricultural workers and the program recognizes the special educational and economic needs of these youths (for example, basic education instruction and evening classes). The grantees we visited in California and Florida said MSFWP can play an important role in furthering the educational achievement of these youths. Although grantees collect age data on each participant, Labor collects and reports participation and outcome data in only three age groups—all participants under 22, a category that combines the experiences of school-aged youths with young adults (those aged 22 to 44) and those aged 45 and over. Labor does not disaggregate data for individuals aged 14 to 17. Without national program information for the 14- to 17-year-old group, Labor and other groups cannot assess program involvement or outcomes for youths alone.

The lack of national program or outcome data for this population may not reflect current MSFWP operations. MSFWP is authorized to serve youths as young as 14 and is serving many youths or young adults. Although no national data are available to show the number of program participants aged 14 to 17, the data that are available show that 3,657—over 30 percent

of program terminees in 1996[54]—were 21 years old or younger. Moreover, data from one grantee we visited showed that 17 percent of MSFWP participants were under 18, and, of these, 31 percent were under 16. Evidence also indicates that youths may require different training and supportive service experiences than adults. At the MSFWP sites we visited, trainers and administrators told us that young participants stayed in the program longer and required more expensive services than older participants. Others believed that teenage participants required combinations of services that were hard to provide under current guidelines.[55]

Because the needs of youths might differ from those of adults, participation and outcome data breakdowns for ages 14 to 17 may be necessary to verify whether the program is helping youths and to identify services that are most likely to affect youths positively. Such information would also be useful for determining whether a special allotment of funds to be set aside to serve only youths would be an appropriate way to provide services to these youths. Labor officials stated that this information may be helpful but that approval from the Office of Management and Budget would be required to alter the type of data Labor collects from grantees.

Information From MSFWP Could Help Identify Effective Activities Planned Under Domestic Child Labor Initiative Proposal

In response to the President's Child Labor Initiative, Labor, in its fiscal year 1999 budget has requested an additional $5 million from the Congress to support a pilot and demonstration project for 14- to 18-year-old dependents of migrant agricultural workers. This project aims to develop innovative strategies to decrease child labor in agriculture through economic and educational incentives, including subsidized nonagricultural employment and individualized educational opportunities, additional to those provided by the child's assigned school, that provide credit for graduation. Because this program will most likely target youths with characteristics like those of young MSFWP participants, an analysis of MSFWP data on participation, services, and outcomes for youths in this age range could demonstrate what combinations of job training activities and supportive services have been most associated with positive educational and employment outcomes.

[54]A "terminee" is a program participant who leaves the program for any reason.

[55]These concerns are consistent with previous work we have done that studied the effect of services provided by JTPA Title II A and C—services similar to those provided by MSFWP. We reported in Job Training Partnership Act: Long-Term Earnings and Employment Outcomes (GAO/HEHS-96-40, Mar. 4, 1996) that activities provided through JTPA title II positively affected the short-term earnings and employment rates for adult men and women-but not for male and female youths.

Conclusions, Recommendations, and Agency Comments and Our Evaluation

Conclusions

Sixty years after the passage of FLSA, questions about the conditions of children employed as migrant and seasonal agricultural workers continue to surface. Although basic, reliable data on the number of children working in agriculture, their duties, and the consequences to their health and safety are limited, available data indicate that these children tend to be at greater risk of serious injury and death than those employed in other industries. In addition, children hired to work in agriculture receive less protection under the law than children who work in other industries. Furthermore, weaknesses in enforcement and data collection procedures indicate that violations of child labor law may not be detected, or the violations reported may not accurately reflect the extent to which children are employed illegally. Moreover, although Labor and Education administer many programs that target educationally and economically disadvantaged children generally, we know little about whether those programs are helping children in migrant and seasonal agriculture overcome the serious educational challenges they face.

Several changes could improve Labor's detection of illegal child labor in agriculture and thus improve the protection of these children's health, safety, and educational opportunities. The procedures WHD currently has for identifying a child's age and employment history do not account for potentially fraudulent or missing age documentation or ambiguous employment relationships, which are common to this industry. As a result, WHD inspectors probably miss potential violations of illegal child labor in agriculture. National guidance for inspectors that specifies what activities they should conduct to address these conditions would enable WHD to detect more violations. In addition, WHD and other enforcement agencies are not taking advantage of the procedures established to facilitate enforcement, such as referring potential cases, conducting joint inspections, or exchanging information. This situation results in confusion and lost opportunities for detecting potential violations. If WHD followed these procedures and, as required in some cases, ensured that systems provided information to determine whether such procedures were being followed, it would also bolster detection of illegal child labor in agriculture by more efficiently using resources.

Labor has an excellent opportunity to improve its processes with its salad bowl enforcement initiative. The issuance of documented procedures that should be followed for adequately identifying children's ages and employment would ensure that inspectors act in a systematic, consistent way to detect illegal child labor. In addition, because a specific number of these inspections are to be conducted, WHD should be able to work with

other federal and state labor agencies to conduct joint inspections, exchange information, and determine the best way to make sure these procedures are followed on an agencywide basis.

We realize that establishing and following such procedures may affect the level of resources allocated to agriculture and child labor, resulting in a possible decrease in enforcement activity in other areas. Such tradeoffs, however, are inherent in establishing enforcement priorities, and Labor has already established the reduction of illegal child labor in agriculture as a key enforcement priority. The Secretary established this priority, which is indicated by the salad bowl enforcement initiative and by Labor's fiscal year 1999 requested budget increase to enhance enforcement in agriculture. In that respect, Labor already plans to increase its allocation of enforcement resources to agriculture and child labor; improved guidance to inspectors and emphasis on coordination would ensure more efficient use of those resources.

WHD's reporting of violations involving children could also be improved. Methods used by WHD and others to collect data on enforcement actions understate the extent to which children are involved in the hundreds of other labor law violations, such as record-keeping and minimum-wage violations, that are detected each year. The lack of such data masks the true extent of labor law violations involving children. WHD's inability to identify the number of FLSA child labor record-keeping violations is mainly a data problem because WHD's data system does not identify any record-keeping violations, even though FLSA child labor record-keeping violations have a civil monetary penalty. WHD needs to establish a way to identify the number of child labor FLSA record-keeping violations detected each year to provide more complete information about the types of FLSA child labor violations as well as better reflect the level and type of child labor violations detected by WHD.

Regarding the identification of other labor law violations involving children, WHD already looks for child labor in every inspection it conducts, and, according to WHD officials, inspectors will try to identify the ages of children on site and their conditions of work. Because these procedures are already in place, it would appear that for minimum wage and other labor laws under WHD's authority, WHD inspectors may be able to obtain age information. This kind of information would help Labor and policymakers better understand the extent to which labor law violations involve children. Such information, for example, could help evaluate the validity of the view held by many that some agricultural employers systematically

target children to pay them less than the minimum wage or pay a family of workers wages that do not reflect the entire family's work. The availability of such information could also help WHD identify regulatory or enforcement actions to correct this problem. We recognize the collection of this information may cause additional work for inspectors and may result in other unanticipated difficulties. For that reason, we believe this data collection effort could be tested during salad bowl inspections. During these inspections, WHD inspectors could obtain information on violations involving any individuals under 18 to determine what resources would be needed in collecting such age information. After WHD has tested this procedure and determined the results of these activities, Labor could determine whether it would be worthwhile to collect such information for all agricultural inspections.

Labor could also assess the impact of MSFWP on the educational opportunities of children in migrant and seasonal agriculture aged 14 to 17. Although the program serves children as young as 14, program administrators have traditionally focused on adults' employment needs, which has affected the program's ability and desire to serve children. Yet, the program may have a special role for serving children aged 14 to 17—especially those who may not be in school, who may already be working, or who cannot be served by traditional education-related programs—and, in fact, this program serves a substantial number of children and young adults. Local programs maintain data on participation, service provision, and outcomes for children in migrant and seasonal agriculture in this age range, but Labor collapses the data into broad age groupings (such as ages 14 to 22) when it collects the data. If Labor developed and analyzed information on youths aged 14 to 17, it would help resolve the disagreement about the program's role in serving this age group within its broad mandate of serving both youths and adults. If the data indicate that this program plays an important role in providing services to children, it will help decisionmakers determine the most appropriate program orientation for children and adults.

Changes in enforcement and data collection procedures will improve the detection and reporting of illegal child labor in agriculture; however, our review indicates that protections provided by FLSA to children working as hired migrant and seasonal agricultural workers in today's modern agricultural environment may not be adequate. In addition, these protections may be inconsistent with the increased emphasis on the safety, health, and academic achievement of children. The rise in dominance of large agricultural producers and the associated decline in

the number of small and family farms has created a new type of child labor on U.S. farms. These children or their parents work in agriculture on a migrant or seasonal basis, and, unlike in the past, most are not related through family or community ties with their employers. In addition, many young agricultural workers live independently of their families. Growing reliance on mechanization and pesticides has increased the safety and health hazards associated with agricultural work. Current laws allow children to work in agriculture at younger ages, for longer hours, and in more dangerous occupations than children working in other industries. As we have reported, children working in agriculture are more likely to have severe work-related injuries and work-related deaths than children working in other industries. Furthermore, they are less likely to be enrolled in school and less likely to be graduated from high school than other children. Given the changing character of the agriculture industry, the allowable working conditions for child agricultural workers may be contributing to the health, safety, and education problems that these children face.

Matter for Congressional Consideration

Considering the evolutionary changes that are transforming the agricultural industry and the increased emphasis on the safety, health, and academic achievement of children, the Congress may wish to formally reevaluate whether FLSA adequately protects children who are hired to work as migrant and seasonal farmworkers.

Recommendations

To improve Labor's detection and reporting of illegal child labor in agriculture, we recommend that the Secretary of Labor direct the Assistant Secretary of Employment Standards to take the following actions:

- issue national enforcement procedures specifying the actions WHD inspectors should take during agricultural inspections when documentation for verifying a child's age is missing or potentially fraudulent or when existing documentation does not reflect a child's possible employment;
- take steps to ensure that procedures specified in the existing agreements among WHD and other federal and state agencies—especially regarding referrals to and from other agencies, joint inspections, and exchange of information—are being followed and, as required in some agreements, are being recorded and tracked;

- develop a method for identifying the number of record-keeping violations resulting from employers not having children's ages on file as required by FLSA; and
- test the feasibility of collecting data on the number of minimum-wage and other labor law violations that involve individuals under 18.

We also recommend that the Secretary of Labor direct the Assistant Secretary of the Employment and Training Administration to develop and analyze data on MSFWP services and outcomes for children aged 14 to 17 to determine the number of these children served, the services provided, and the outcomes experienced by these children.

Agency Comments and Our Evaluation

We provided copies of this report to USDA, EPA, the Departments of Labor and Education, and the states included in our review for comment. EPA, Education, and the states provided technical comments to improve the clarity and accuracy of the report, which were incorporated as appropriate. USDA concurred with our recommendations (see app. II).

In its response, Labor concurred with the intent of our recommendation to issue national enforcement guidance specifying the actions WHD inspectors should take during agricultural inspections to verify a child's age or employment status (see app. III). Labor has, in fact, provided additional guidance on this matter on the regional level in at least two regions, and the Department said it will determine if additional guidance is needed. We believe this recently issued guidance includes the additional procedures necessary to better detect illegal child labor in agriculture. At this time, however, the guidance has only been distributed to particular WHD local offices. Although this represents a positive first step toward implementing our recommendation, we still believe that this guidance needs to be issued to all WHD inspectors so they can systematically and consistently take these actions to adequately detect illegal child labor in agriculture.

Labor also concurred with our recommendation aimed at ensuring that coordination procedures specified in existing agreements with federal and state agencies are followed, recorded, and tracked. It said that WHD does have specific procedures for responding to and issuing case referrals and is now streamlining this process. As we reported, however, whether these procedures are followed is not always evident. Ideally, in streamlining these procedures and implementing this recommendation, WHD will focus on documenting adherence to these procedures to preclude the communication problems we detected among WHD and other agencies.

Regarding our recommendations to develop a method for identifying the number of FLSA child labor record-keeping violations and to test the feasibility of collecting data on children's involvement in other violations, Labor acknowledged that such data may be beneficial but identified cost and the practicality of collecting such information as major issues requiring consideration. We agree that these are important issues, but given the Results Act environment that seeks to encourage data-driven measurable goals and objectives, the emphasis WHD has placed on detecting illegal agricultural child labor and WHD's efforts to revise its databases to better reflect enforcement activities and outcomes, we still believe that collecting this information—even on a limited basis—would enhance the agency's efforts to protect children from exploitation in the work place. In addition, the lack of data contributes to the general lack of information about the nature, magnitude, and dynamics of illegal child labor in the United States. Only WHD, as an enforcement agency tasked with protecting children, can collect these kind of data. Although NAWS may be useful for understanding some aspects of the child labor problem, its self-reporting nature and sampling limitations make it less appropriate for grasping issues concerning illegal employment of children.

Labor did not directly comment on our recommendation to develop and analyze data on MSFWP services and outcomes for children aged 14 to 17 to determine the number of these children served, services provided, and outcomes achieved by these children. Labor said, however, that this information is included in the aggregated data collected on all participants aged 14 to 22. We recognize this, and, in fact, the inability to isolate information on children aged 14 to 17 is the main reason why we are making this recommendation. By combining the experiences of youths with adults, Labor cannot analyze the services provided to participants under 18.

Labor also raised several issues related to our characterization of WHD's enforcement efforts. For example, it disagreed with our observation that the decline in enforcement resources devoted to agriculture resulted in fewer opportunities to find potential child labor violations. Instead, Labor asserted that no direct correlation exists between the decline in resources devoted to agricultural inspections and WHD's ability to detect potential child labor violations. Although we agree that detecting illegal child labor is not solely determined by the number of inspections conducted, we know from experience that when WHD targets particular commodities or employers with additional inspection resources, it has found a substantially larger number of violations—as evinced by the ongoing salad

bowl initiative and past child labor targeting efforts. Furthermore, Labor highlighted the additional resources it has requested for fiscal year 1999 to better detect illegal child labor in agriculture, which indicates Labor's belief that increased resources are important to detecting illegal child labor. Labor also provided technical comments, which were incorporated as appropriate.

State Experiences With Child Labor in Agriculture

This appendix describes California's, Florida's, and Vermont's experiences with child labor in agriculture, including the protections provided by these states' child labor laws, numbers and characteristics of violations detected, state officials' views on the magnitude of child labor in agriculture, and key issues affecting these states' ability to detect illegal child labor in agriculture. (For a discussion of the criteria used to select these states, see ch. 1.)

State Protections for Children Working in Agriculture

California, Florida, and Vermont all have child labor laws that provide protections for children working in agriculture (as shown in table I.1), but, generally, the laws provide less protection for children working in agriculture than those for children working in other industries. Compared with protections the state laws offer children working in other industries, only the provisions in Florida's law apply equally to children working in agriculture and other industries.[56] Vermont allows children to work in agriculture at younger ages than in other industries and for longer hours. California allows employers operating agricultural packing plants to employ 16- and 17-year-olds on any day when school is not in session for up to 10 hours a day during peak harvest season. Although this situation should only be allowed if it does not materially affect the children's safety or welfare and only if needed by the employer to prevent undue hardship, California generally grants all requests for such exemptions after inspectors initially inspect an employer's work site. Moreover, because California has no prohibited agricultural occupations for children aged 16 and older (although it does for children in other industries) and Vermont has declared no specific agricultural occupations as hazardous, children working in agriculture in these states may work at more dangerous occupations at younger ages than children in other industries. Moreover, all three states provide some exemptions from age, hour, or occupation restrictions for children who are in farm-related training programs.

[56]The one notable exception to Florida's law is that children working in agriculture at age 14 and 15 may drive a tractor under the supervision of a parent on a family farm, and qualified 14- and 15-year-olds may drive tractors for their farmwork under the close supervision of a farm operator. Children of similar ages in other industries may not operate any motor vehicles.

Table I.1: Child Labor Law Protections for Agricultural Workers Under 18 in California, Florida, and Vermont

	California	Florida	Vermont
Minimum age children may work			
During school hours	16	18	14
Outside school hours	14	14	Any
Key prohibited occupations			
Under 16	Occupations declared hazardous by federal regulation, including — operating a tractor of a certain size; — operating or assisting to operate farm machinery (such as corn picker, cotton picker, grain combine, post hole digger, trencher or earth-moving equipment, forklift, or power-driven saw); — working from a ladder or scaffold from a height of over 20 feet; — driving a bus, truck, or automobile when transporting passengers or riding on a tractor as a passenger or helper; or — handling or applying pesticides. Children under 12 are prohibited from working or accompanying parents around moving equipment, unprotected chemicals, or unprotected water hazards, which are considered agricultural "zones of danger."	— Using power-driven machinery — Manufacturing, transporting, or using explosives or highly flammable substances — Driving motor vehicles — Oiling or cleaning machinery	No specific agricultural occupations have been declared hazardous. Others that may apply to agricultural work include — operating picker machines; — using shears; — operating any machine with an unguarded belt; — operating any power-driven machinery other than that operated by foot power; — operating steam-generating equipment; and — operating or cleaning high-voltage equipment.
Under 18	None	— Working on a scaffolding or ladder from a height of over 6 feet — Working around toxic substances — Operating a tractor of a certain size, any trencher or earth-moving equipment, any harvesting, planting, or plowing machinery	None
Hours allowed to work (on school and nonschool days)			
Under 16	School: 3 hours a day and 18 hours a week Nonschool: 8 hours a day and 40 hours a week	School: 3 hours a day and 15 hours a week Nonschool: 8 hours a day and 40 hours a week	Any

(continued)

	California	Florida	Vermont
16 and 17	School: 4 hours a day and 48 hours a week Nonschool: 8 hours a day and 48 hours a week	School: 8 hours a day and 30 hours a week Nonschool: unlimited	Any
Other key provisions			
Work permits	To work, children under 18 must obtain a work permit that verifies their age and allowed hours of work.	Not applicable	Any child under 16 wishing to work during school must get a permit from the Commissioner of Labor verifying the child's age, educational performance, school attendance, and physical well-being.
Special workers' compensation awards	The workers' compensation award for children injured while illegally employed increases by 50 percent.	The workers' compensation award for children injured while illegally employed may double.	No special workers' compensation provisions for children injured while illegally employed
Major exemptions[a]	Employers operating agricultural packing plants that employ 16- and 17-year-olds can be granted exemptions that allow children to work up to 10 hours a day in any day when school is not in session during peak harvest seasons.	Qualified 14- and 15-year-olds may drive tractors for their farm work under the close supervision of a farm operator.	Commissioner may suspend all or part of this law for up to 2 months for a business producing perishable products that require immediate labor.

Note: In some cases, these protections also apply to children working in other industries. This table does not include every protection or exemption provided by these states.

[a]In addition to exemptions for parents employing their own children.

Source: Child labor laws from California, Florida, and Vermont.

Compared with the federal FLSA (which provides less stringent protections for child workers in agriculture than in other industries), California's and Florida's laws have more restrictions on the hours children may work in agriculture and the occupations they may perform. Both states limit the number of daily or weekly hours that children may work in agriculture, compared with no restrictions under FLSA. Florida also requires that any child working more than 4 continuous hours receive a 30-minute rest period and limits the occupations children under 18 may perform. California has a requirement that all children under 18 must obtain a work permit that verifies the child's age and specifies the hours the child may work. It also has an agricultural "zone of danger" provision that restricts children under 12 from working or even accompanying a parent around moving equipment, unprotected chemicals, or unprotected water hazards. Like FLSA, California and Florida also provide exemptions to parents who employ their children, but Florida requires parents who employ their children to adhere to hazardous occupation requirements. California,

which requires parents employing their children in manufacturing, mercantile, and other enterprises to obtain work permits and comply with occupation restrictions, exempts parents employing their children in agriculture from these requirements.

Vermont's law (like FLSA) allows children to work an unlimited number of hours in agriculture and (unlike FLSA) allows children of any age to work in agriculture outside of school.[57] Vermont's law provides no exemptions to parents who employ their own children; however, Vermont officials said they have interpreted the law to allow family farmers to employ their children without restriction.

Child Labor Violations in Agriculture Detected by These States

Each of these states had either a decline in the number of cases involving child labor violations in agriculture or reported few or no violations in the past 5 years. The number of cases of agricultural child labor violations has declined in California—from 153 in calendar year 1993 to 39 in calendar year 1997. California's Commissioner of Labor said that most of the violations detected have been for work permit violations—the employer did not have a valid work permit on file for the child. California has less frequently applied its agricultural zone of danger provision. Our review of case file documents of agricultural child labor violations in the past several years supported this. The majority of children these violations involved were 15 to 17 and were working without valid work permits. The Commissioner did not know whether the special workers' compensation provisions for illegally employed children in agriculture had been applied.[58]

Because Florida's child labor law applies equally to children working in all industries, Florida's Department of Labor and Employment Security does not separately track the number of cases detecting violations of child labor law in agriculture. Florida officials believed, however, that the majority of cases in which violations had been detected (a total of 651 between February 1995[59] and January 1998) were in nonagricultural industries. Officials said that a recent enforcement sweep of 170 farm labor contractors identified few potential child labor violations. Although these inspections were still ongoing, our review of two of these cases identified

[57]The allowance for children of any age to work outside of school hours also applies to retail and service industries.

[58]As noted in table I.1, California provides for workers' compensation awards for children injured while illegally employed to increase by 50 percent.

[59]Florida instituted a new database in Feb. 1995; as a result, comparable data are not available for prior years.

potential violations for the child's age not being on file or for the child's working during school hours. The Vermont Department of Labor and Industry reported no violations of child labor in agriculture in the past 5 years.

State Officials' Views on the Extent of Child Labor in Agriculture

Officials in these states could not identify the precise number of children working in agriculture in their states or their overall injury or fatality rate, but they generally believed that the number of children working in agriculture was lower than it had been in the past or that it was not as serious a problem as depicted in the popular press.[60] California's Commissioner of Labor said the problem is less pervasive now then it was in years past because of the large supply of adult workers, which means growers do not have to hire children, as well as the success of inspection and education efforts. In both California and Florida, officials said the agricultural industry has been changing with the growth of large agribusinesses, which do not want to hire anyone under 18.[61] Vermont officials said the majority of migrant workers who enter the state to pick apples are single Jamaican men. Otherwise, most of the workforce is local, and officials said children probably would not work in agriculture because they lack transportation to agricultural work sites.

State officials also said that children who are working may be legally employed. These children may be working on the weekends or after school, which is within the confines of the law (depending upon the age and the number of hours worked in some cases). In addition, the children may be working for their parents so the work would be outside these agencies' legal authority. In Florida, for example, "pinhookers"—hired farmworkers who contract with a grower to go into the fields after other workers have picked over the crops to get any remaining crops to sell directly to others—often hire their children to work for them. In Vermont, in addition to the small local orchards, most of the farms are dairy farms or maple syrup operations, which are generally small family operations that hire few children.

Officials also reported that, in many cases, even if children are in the field, they may not be working. For example, because California has intense,

[60]In 1997, the Associated Press ran a series of articles about illegal child labor in agriculture and identified over 100 children ostensibly working in several states, including California and Florida, whom enforcement agencies had not detected.

[61]Florida officials said that they have a serious child labor problem with children working illegally in other industries such as in door-to-door sales.

short-term harvesting seasons for various crops (such as olives, raisins, and garlic), migrant workers often bring their children to the fields because of the lack of day care. If these children are not working, however, they would also not be covered by child labor laws (except in the case of California's agricultural zone of danger provision, which prohibits a child under 12 from even accompanying a parent to specific hazardous locations).

Nonetheless, Florida and California officials admitted that the potential presence of illegal child labor needs to be addressed. The number of young independent male farmworkers entering the country illegally from Mexico has increased in Florida. These children have no families with them, do not attend school, have no social support systems, and generally do not want enforcement agencies to detect them. In California, more serious problems are children aged 16 and 17 working without work permits or working more hours than legally allowed or families working on a piece-rate system, which may result in children and other family members not making the legal minimum wage.

Key Issues Affecting the Ability to Detect Illegal Child Labor in Agriculture

During interviews with state officials and a review of enforcement data, we identified several issues that may affect these states' ability to detect illegal child labor in agriculture. These include the level and type of resources devoted to agriculture and procedural challenges to documenting a child's age or employment, which are necessary for detecting violations.

Resources Allocated to Detecting Illegal Child Labor in Agriculture

In California, agricultural inspections are conducted through the Targeted Industries Partnership Program (TIPP), a joint federal-state effort to leverage limited resources, while focusing on two high-risk industries—garment manufacturing and agriculture.[62] California officials said the majority of TIPP agricultural inspections stem from complaints because California has actively sought complaints. About 16 percent of California's enforcement staff is now devoted mainly to agricultural inspections through TIPP, but the number of TIPP agricultural inspections declined from 1993 to 1997 and the relative percentage of inspections in which violations were found has also declined—from 23 percent in 1993 to 9 percent in

[62]TIPP was designed to enforce laws more effectively by sharing the resources of federal and state enforcement agencies such as WHD, OSHA, California's labor department and its Employment Development Department by conducting joint inspections, exchanging information, and coordinating educational outreach.

1997.[63] In addition, although children are most likely to work in agriculture before and after school or on weekends, our review of case file information for violations detected by California TIPP inspectors in the past several years found that most of the inspections take place during normal working hours (9 a.m. to 5 p.m. Monday through Friday). According to the state Commissioner of Labor, all of the labor inspectors in TIPP must be bilingual because they have to interview workers—many of whom speak no English. Farmworker advocates in California, however, report that in the Fresno area (which has a large concentration of agricultural workers who speak Spanish or other languages), no TIPP inspector was assigned to the area for a long period of time,[64] and some TIPP inspectors still do not speak the languages of these workers.

Recognizing the need to address illegal child labor and other problems in the agricultural industry, California plans to initiate a raisin harvesting enforcement effort this summer and conduct about 800 agricultural inspections this year. For this effort, inspectors will identify the peak harvest times for particular employers' crops and conduct roadside traffic stops of vans transporting workers to the fields. By interviewing the workers, inspectors will find out workers' destinations and whether any children will be present. Inspectors will also conduct off-hours inspections, such as on evenings and weekends, to detect illegal child labor.

Florida officials reported that even though they do not track information separately for agricultural child labor inspections, they conduct many farm labor contractor inspections in agriculture (over 3,000 in 1996) during which inspectors must look for illegal child labor. These farm labor contractor inspectors constitute over 60 percent of Florida's inspection staff; about 40 percent of inspection staff are bilingual. Florida officials said that although complaints drive most child labor inspections, the state uses Florida's farm labor contractor registrations and other criteria, such as particular geographic areas and peak harvest seasons, for targeting inspections.

According to Vermont labor officials, because the state is small, only one individual oversees the provisions of Vermont's labor laws for minimum wage and child labor in all industries. This individual typically conducts no on-site inspections, whether for agriculture or other industries, but may

[63]Commensurate with these reductions, the number of inspections, violations, and penalties increased for the garment manufacturing industry.

[64]California officials indicated, however, that during this time inspectors came from other locations to cover the Fresno area.

refer cases to other department inspection officials. Because all of Vermont's inspections are based on complaints and Vermont has received no complaints either about child labor in agriculture or agriculture generally, it has conducted no inspections in agriculture in the past 5 years.

Procedural Challenges to Detecting Illegal Child Labor in Agriculture

Although California and Florida devote resources to agricultural child labor inspections and officials from both states emphasized their dedication to eliminating illegal child labor, both states reported detecting a declining number of or only a few violations. Discussions with officials in California and Florida and a review of their data revealed several procedural challenges that may affect these states' ability to detect illegal child labor during inspections. These challenges include verifying the child's age and employment relationship with the employer, which are necessary for detecting violations. The states also had limited data, which may hinder their ability to assess the results of their efforts.

Documenting Children's Ages

Officials in Florida said locating adequate documentation to allow inspectors to independently verify children's ages is difficult. In many cases, the documentation may not be available because the children may not be in school, may be illegal, or have no proof of age. Even if documentation is available, it may be fraudulent. [65] Florida officials said that unless inspectors can prove that documents are obviously fraudulent, the Immigration and Naturalization Service has said inspectors may not question the documents. Under California's work permit system, according to the California Commissioner of Labor, inspectors may cite an employer for illegally employing a minor when the employer has no valid work permit for a child, even if the inspector cannot independently validate the child's age. He also said that by definition, the employer's failure to have a valid work permit on file for the child equates to an hours violation because the child cannot work any hours without a work permit. Although this is helpful, it does not obviate the requirement for inspectors to independently validate a child's age to cite an employer for other violations such as for a hazardous occupation or an agricultural zone of danger. The Commissioner of Labor said he believed because TIPP inspectors are bilingual, they can interview the workers to determine children's real ages to detect other violations. A review of a sample of violations since 1994, however, showed that the overwhelming majority were detected because employers lacked valid work permits; in few

[65] In some cases, Florida officials said they actually have the opposite problem—in some cases, workers may look 15 but are actually of legal age.

instances violations were detected because employers violated hours, occupation, or zone of danger restrictions. The low incidence of other violations may indicate that inspectors have difficulty independently validating children's ages.

Documenting the Employment Relationship

California and Florida discussed the agricultural industry's effects on inspectors' ability to verify a child's work history. Officials in both states noted that their procedures call for inspectors to review documents, including payroll, workers' compensation data, and other records, but that these procedures were not always effective because official documents do not always reflect the informal work arrangements. In Florida in the past several years, two children died on a farm while with their parents (who were hired farmworkers). Although the parents were working when the children died, Florida determined that neither child was actually working. Our review of these case files showed that inspectors had spoken with the parents and employer about the circumstances surrounding the children's deaths; it was not clear, however, whether the inspectors had taken additional steps to determine whether the children had previous work history at that work site and may actually have been working when they died. California's Commissioner of Labor said that for an upcoming raisin harvesting enforcement effort, each inspector will have a camera to take photos of children working, but it is not clear that inspectors will do this for all TIPP inspections. The Commissioner also said that inspectors know to interview workers for information on the employment relationship, but no documented procedures are now in place for instructing inspectors in doing this.

Limitations of Databases

In California and Florida, the enforcement databases have limitations that may affect the states' ability to assess progress made or success with enforcement efforts. In Florida, because the law treats children in agriculture the same as children in other industries, Florida collects no separate data for agricultural inspections or agricultural child labor violations. California's enforcement database does not allow officials to readily access basic information such as the number or ages of children involved in the violations. In addition, California collects no information on the extent to which other violations, such as minimum wage (California has a state minimum wage) or overtime (California requires employers to pay agricultural workers overtime for working over 60 hours a week), involve children. This is the case even though the state Commissioner of Labor has acknowledged that children of all ages are most likely to be exploited because entire families work on a piece-rate system, which can result in children not making the legal minimum hourly wage.

Comments From the Department of Agriculture

United States Department of Agriculture

Office of Secretary

Office of the Chief Economist

14th & Independence Ave., SW
Washington, DC 20250

July 23, 1998

Ms. Carlotta C. Joyner
Director, Education and Employment Issues
Health, Education, and Human Services Division
United States General Accounting Office
Washington, D.C. 20548

Dear Ms. Joyner:

This is in reply to your letter to Secretary Dan Glickman requesting comments on the draft General Accounting Office report entitled "Child Labor in Agriculture: Changes Needed to Better Protect Children's Health, Safety, and Educational Opportunities."

The Department of Agriculture appreciates the opportunity to review this report and concurs with its recommendations.

Sincerely,

Keith Collins
Chief Economist

Comments From the Department of Labor

U.S. Department of Labor

Assistant Secretary for
Employment Standards
Washington, D.C. 20210

AUG 11 1998

Ms. Carlotta C. Joyner
Director, Education and
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Health, Education and
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U.S. General Accounting Office
Washington, D.C. 20548

Dear Ms. Joyner:

Thank you for the opportunity to review and provide comments on the draft General Accounting Office (GAO) report, Child Labor in Agriculture: Changes Needed to Better Protect Children's Health, Safety and Educational Opportunities. Since the report addresses issues which fall under the jurisdiction of several DOL agencies, our comments are presented by agency. In addition, we have annotated a number of technical and editorial changes and corrections on the draft report; these have been transmitted to you under separate cover.

Employment Standards Administration

Now on pp. 4 and 37.

In the last paragraph on page 3 and in the first paragraph on page 42, the report suggests that violations involving children in agriculture are likely going undetected because of weaknesses in current Wage and Hour enforcement and data collection procedures. It further notes the decline in enforcement resources and the number of cases of detected child labor violations over the past 5 years. We must point out that the decline in resources and Wage and Hour's ability to detect violations are separate issues and that there is no direct correlation between these two issues, though such an inference might be drawn from the second sentence of the paragraph.

In its FY 1999 budget request, the Department has requested an increase of $3 million and 36 FTE as part of the President's Child Labor Initiative to increase compliance in targeted industries – including agriculture, garment

Working for America's Workforce

manufacturing, health care and other low-wage industries. This initiative will enable Wage and Hour to replicate efforts such as "Operation Salad Bowl." In addition, in order to make more effective use of limited resources, Wage and Hour has made education and outreach and compliance partnerships – to promote and assist voluntary compliance efforts – integral components of its integrated compliance strategy.

Now on p. 37.

The discussion in the continuing paragraph at the top of page 44 should be revised to include reference to the FY 1999 request for additional resources for the President's Child Labor Initiative mentioned above.

Now on p. 41.

On page 48 of the report, GAO suggests that the current policies and procedures stated in the Wage and Hour Field Operations Handbook do not provide adequate guidance to Wage and Hour investigators when an employer does not have records documenting the age of minors employed by them. Further, the report notes that the lack of this kind of documentation or the prevalence of fraudulent documentation is common for children working in agriculture. GAO recommends that Wage and Hour issue national enforcement procedures to provide guidance to investigators on actions to take during agricultural investigations when necessary documentation for verifying a child's age is missing or potentially fraudulent, or when documentation does not reflect a child's possible employment. Wage and Hour concurs with the intent of this recommendation and notes that at least two regions have provided guidance at the regional level, and that the current Field Operations Handbook contains guidance for investigators to follow when they determine that the age of a minor needs to be verified. Investigators are also encouraged to use their judgment in determining if additional actions are appropriate. Therefore, Wage and Hour will review the Handbook and current regional guidance to determine if these can be improved, particularly for agriculture, and if so, will issue revised guidance.

Now on p. 43.

We concur with the recommendation that steps be taken to ensure that procedures in existing agreements between Wage and Hour and Federal and State agencies are followed and to record and track such activities, as appropriate. The discussion on referrals beginning on page 50 could lead readers to incorrectly assume that Wage and Hour does not act on referrals. Wage and Hour does have specific procedures for responding to referrals from other agencies. These referrals are tracked and processed as complaints subject to normal agency complaint procedures. All aspects of a

referral are evaluated by the receiving office to determine the appropriate response. Factors considered in determining the response include any potential danger to the affected workers and the feasibility of finding and correcting the alleged violation, which will vary widely from referral to referral. For example, a referral from another agency -- or any other source -- alleging possible hazardous employment of underage children in agriculture would be given top priority.

Wage and Hour also has specific procedures for referring alleged violations -- including potential violations of child labor laws -- to the proper enforcement agency. This procedure calls for the use of Form WH-124 to notify the agency, but allows for contact by other means when time is critical, for example, by direct telephone contact. Copies of completed Forms WH-124 are placed in the Wage and Hour case file, but are not maintained as a separate "referral" file. Wage and Hour has completed an update of the WH-124 procedure, including changes to streamline the process by eliminating any need for Regional Office review, which will be added to the Wage and Hour Field Operations Handbook in the near future.

Now on p. 43.

The report indicates on page 51 that Federal and State enforcement officials disagreed on jurisdiction in particular cases. Questions concerning which agency has jurisdiction for a particular set of child labor allegations are common in child labor enforcement. Federal and State laws operate under widely different child labor coverage and definition parameters, which can seldom be applied without an onsite investigation.

It is unfortunate that some State representatives who attended the Wage and Hour Stakeholders Forum last month felt that decisions on program priorities had already been made. The forum, in fact, marked the beginning of Wage and Hour's development of its strategic plan for FY2000 - FY2004 and annual performance plan for FY2000. By holding the forum before it began its own internal planning discussions, Wage and Hour made an earnest attempt to obtain input from its stakeholders to be considered during the planning process. We were pleased that State representatives were active in the discussions during the breakout group sessions and found their feedback very useful.

Now on p. 44.

The report notes in the section beginning on page 52 that the criteria Wage and Hour uses to determine where and when to conduct investigations may not reflect the likely presence of children. Wage and Hour acknowledges

that this is correct, in that child labor may not be a primary focus of every compliance initiative. That would depend largely upon the industry and geographical area involved. Limited resources require that many targeted compliance initiatives be undertaken in sequence so that they complement each other to enhance Wage and Hour's effectiveness in detecting the most prevalent violations and reducing the levels of noncompliance.

The presence of unlawful child labor in agriculture has been a long-standing concern of Wage and Hour. Child labor in agriculture is a prominent focus of the "Fair Harvest, Safe Harvest" campaign this year. During the June 1998 National Agricultural Coordinating Team Conference, Wage and Hour offices were instructed to incorporate into each national, regional, and local agricultural initiative a child labor enforcement component, including, as appropriate, plans to conduct weekend and pre-and post-school hours investigations designed to detect unlawful child labor.

Now on p. 44

In response to an indication on page 53 questioning if investigators would be able to communicate with workers, Wage and Hour is confident that it has the language skill resources needed to determine compliance with child labor and other requirements during "salad bowl" investigations. Wage and Hour has maintained and distributed internally a list of all staff having multilingual communications skills for more than 15 years. The current list (compiled in 1995) indicates that over 25% of Wage and Hour staff have multilingual abilities, covering 28 languages. An updated list, scheduled for completion in late August, should show an even higher percentage, reflecting the hiring of a significant number of new Investigators with multilingual skills during FY1997.

Now on pp. 43-47

On pages 53-57, the report discusses several limitations of Wage and Hour's database, including the absence of data on recordkeeping violations, and the inability of the penalty database to identify specific violations for which penalties are assessed. The absence of data on the number of minimum wage violations for agricultural employers that involved children is also cited. GAO recommended the development of a method to identify the number of recordkeeping violations that result from employers not having children's ages on file as required under FLSA; and to test the feasibility of collecting data on the ages of individuals under 18 involved in minimum wage and other labor law violations. While it may be beneficial to have the data and the database capabilities suggested, there are at least two major factors that must be considered in determining the feasibility of

developing such systems or capabilities. First, the cost of developing such systems would need to be considered in light of any anticipated benefits to enforcement activities. Second, given the number of workers involved in Wage and Hour compliance activities, many of whom are not personally seen by an investigator, would it be practical to collect certain information, e.g., the age of each employee involved in minimum wage violations? If a primary objective is to determine the number of children working in agriculture, the National Agricultural Worker Survey may be an appropriate alternative source for that information.

Employment and Training Administration

Now on p. 7.

On Page 7, the draft report states that Labor does not collect program data on participants, services provided and outcomes for children in the age of 14 to 17, although data are available at the local level. This is incorrect. Section 402 grantees currently report data on services provided to youth in the age range of 14 to 22. This is the same age range used for reporting purposes throughout the JTPA program. The report should be revised to reflect the fact that Section 402 data on services provided to youth in the 14-to-17 age range are not reported separately to ETA but are included in the data on all services to youth in the 14-to-22 age range.

Now on p. 62.

Similarly, on page 75, the statement leading to the conclusion that the Section 402 program involvement or outcomes for youth cannot be assessed because data are not available. This statement is misleading since data are available for youth in the 14-to-22 age group and assessments may be made for the group based on those data.

Now on p. 60.

On page 72, the report refers to a traditional focus on the needs of adults by the Section 402 program, implying that this focus is misplaced and has occurred to the detriment of serving youth. The traditional focus of the program is to serve farmworkers and their families. The report incorrectly interprets the outcomes of this focus as resulting from a misplaced emphasis on serving adults. This interpretation is misleading because the historical focus placed on serving farmworkers' families is derived from the language of Section 402, which directs that services be provided to migrant and seasonal farmworkers and their families in order to meet their training and employment needs. The implication that youth should be served in greater numbers with an increased emphasis on youth academic achievement through classroom instruction, is not supported by the language of

Section 402.

Now on p. 61.

On Page 73, the report states that because outcome measures are based on adult employment needs rather than academic needs of youth, the measures may be inappropriate for youth for whom long term academic instruction is more appropriate. The Program Year 1995 AMSFW Data Book that is derived from SPIR shows that 89% of Section 402 youth in ages 14 to 22 received basic skills training, which compares favorably to the 83% rate for adults in the 22-to-44 age group. Under the current authorization for Section 402, ETA disagrees with the opinion that long-term academic instructional objectives would be better measures of the outcomes for out-of-school youth enrolled in the Section 402 program. The report notes on page 7 that farmworker advocates believe the Section 402 program has an important role for serving out-of-school youth.

Now on p. 62.

If there are any questions regarding these comments, please do not hesitate to contact us.

Sincerely,

Bernard E. Anderson

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